



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

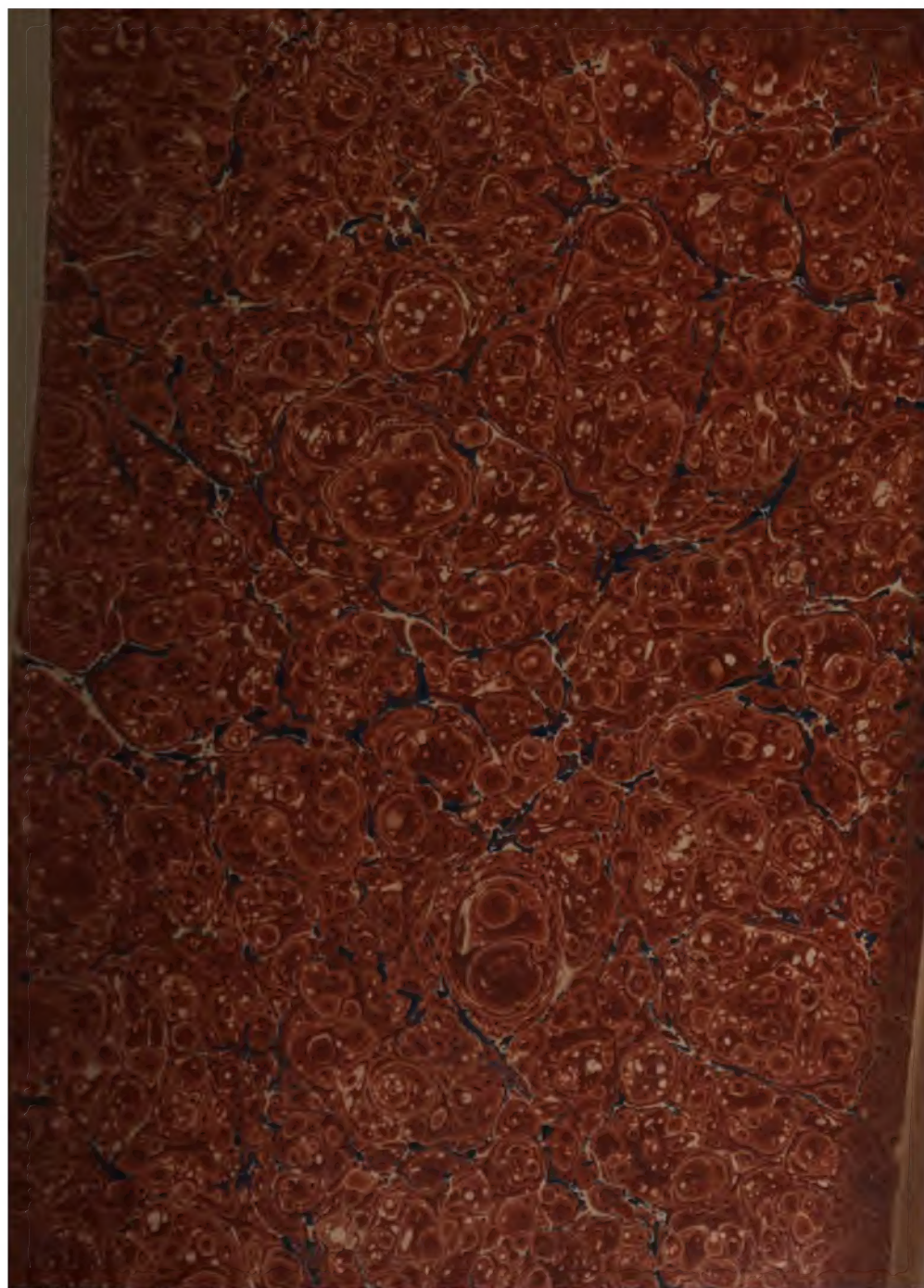




*From the Jarboe Library*



LELAND STANFORD JUNIOR UNIVERSITY



34

C737











---

# Howell's State Trials.

VOL. XXIV.

[BEING VOL. III. OF THE CONTINUATION]

34 & 35 GEORGE III.....A. D. 1794.

---





A.  
**COMPLETE COLLECTION**  
**OF**  
**State Trials**  
**AND**  
**PROCEEDINGS FOR HIGH TREASON AND OTHER**  
**CRIMES AND MISDEMEANORS**  
**FROM THE**  
**EARLIEST PERIOD TO THE YEAR 1783,**  
**WITH NOTES AND OTHER ILLUSTRATIONS:**  
**COMPILED BY**  
**T. B. HOWELL, Esq. F.R.S. F.S.A.**  
**AND**  
**CONTINUED**  
**FROM THE YEAR 1783 TO THE PRESENT TIME:**  
**BY**  
**THOMAS JONES HOWELL, Esq.**

---

**VOL. XXIV.**  
[BEING VOL. III. OF THE CONTINUATION]  
34 & 35 GEORGE III.....A. D. 1794.

---

**L O N D O N:**

*Printed by T. C. Hansard, Peterborough-Court, Fleet-Street :*

FOR LONGMAN, HURST, REES, ORME, AND BROWN; J. M. RICHARDSON;  
BLACK, KINGSBURY, PARBURY, AND ALLEN; BALDWIN, CRADOCK,  
AND JOY; E. JEFFERY; J. HATCHARD; R. H. EVANS; J. BOOKER;  
J. BOOTH; BUDD AND CALKIN; AND T. C. HANSARD.

1818.

YAN  
ROMANOVICH  
VITSEVICH

189382

# TABLE OF CONTENTS

TO

VOLUME XXIV.

---

## GEORGE THE THIRD, A. D. 1794.

603. TRIAL of DAVID DOWNIE for High Treason; at a Special Commission of Oyer and Terminer, holden at Edinburgh September 5th and 6th: 34 GEORGE III. A. D. 1794..... 1
604. The Trial of THOMAS HARDY for High Treason, before the Court holden under a Special Commission of Oyer and Terminer, at the Sessions House in the Old Bailey, on the 28th, 29th, 30th, and 31st days of October, and the 1st, 3d, 4th, and 5th days of November: 35 GEORGE III. A. D. 1794 ..... 197
- 

CORRIGENDA.





C O R R I G E N D A.

VOL. XXIV.

- p. 203, l. 15 *from the bottom, for design, to read design to.*  
p. 252, l. 33, *to the word "treason," should be affixed the following Note:—As to which, see in this Collection the cases of Lord Strafford, Vol. 3, p. 1381; of Peter Messenger and others, Vol. 6, p. 879; of Daniel Dammaree and others, Vol. 15, p. 521; and, of Lord George Gordon, Vol. 21, p. 485.*  
p. 256, *last line but one, for laws read law.*  
p. 660, *last line, for pp. 104, 108, read pp. 221, et seq. ed. of 1817.*  
p. 835, *line 19, for rember read remember.*  
p. 837, l. 23, *from the bottom, for doos read does.*  
p. 840, *last line but one, for belonged read belonging.*  
p. 919, *last line but three, dele see.*  
p. 1061, *line 4, for unanimity. read unanimity:*  
p. 1061, *last line but one, for Debates, read Debate.*



# STATE TRIALS,

&c. &c.

## 603. Trial of DAVID DOWNIE\* for High Treason; at a Special Commission of Oyer and Terminer, holden at Edinburgh September 5th and 6th: 34 GEORGE III. A. D. 1794.†

*Edinburgh Friday, September 5th, 1794.*

*Present.*—Lord President, Lord Chief Baron of the Exchequer, Lord Eskgrove, Mr. Baron Norton, Lord Swinton, Lord Dunsinnan.

*Counsel for the Crown.*—The Lord Advocate, Mr. Solicitor General, Mr. Anstruther, Mr. Dundas.

*Agent.*—Mr. Warrender.

*Counsel for the Prisoner.*—Mr. Cullen, Mr. John Clerk, Mr. Fletcher to assist.

*Agent* Mr. John Dillon.

*Clerk of Arraignment.*—You, the prisoner at the bar, these good men that you shall hear called, and personally appear, are to pass between our sovereign lord the king and you, upon the trial of your life and death; if, therefore, you will challenge them, your time is to speak unto them as they come to the book to be sworn.

The Jury were then called as follows:

Geo. Gardner.—*Prisoner.* I challenge him.

John Bell.—*Pris.* I challenge him.

David Clark.—*Pris.* I challenge him.

William Hunter.—*Pris.* I challenge him.

Thomas Muir.—*Pris.* I challenge him.

Alex. Houston.—*Pris.* I challenge him.

Benjamin Yull.—*Pris.* I challenge him.

Daniel Smith.—*Pris.* I challenge him.

James Carfrae.—*Pris.* I challenge him.

Sir William Forbes.—*Pris.* I challenge him.

1. Robert Young (of Queen Street in the city of Edinburgh) was Sworn.

Alexander Wallace.—*Pris.* I challenge him.

John Mitchell.—*Pris.* I challenge him.

John Scougall.—*Pris.* I challenge him.

John Horner.—*Pris.* I challenge him.

Tho. Hutchinson.—*Pris.* I challenge him.

Archibald Campbell.—*Pris.* I challenge him.

George Kinnear.—*Pris.* I challenge him.

2. William Fraser (of Kirkbrahead in the parish of St. Cuthbert's, of the county of Edinburgh) was sworn.

John Andrew.—*Pris.* I challenge him.

William Lamb.—*Pris.* I challenge him.

3. William Fettes (of Princes-street, in the city of Edinburgh) was sworn.

William Scot.—*Pris.* I challenge him.

James Rannie.—*Pris.* I challenge him.

James Jameson.—*Pris.* I challenge him.

4. James Lindsay (of Quality-street, Leith, wine Merchant) was sworn.

Alexander Sheriff.—*Pris.* I challenge him.

Alexander Kinnear.—*Pris.* I challenge him.

5. James Hamilton (of Princes-street, in the city of Edinburgh, upholsterer) was sworn.

6. Alexander Ponton (of Canal-street in the city of Edinburgh, wright) was sworn.

David Deuchar (of High-street, in the city of Edinburgh, seal-engraver) was sworn.

8. Charles Robinson, (of Princes-street, in the city of Edinburgh, painter) was sworn.

9. George Rae (of Leith-wynd, in the parish of Canongate, candle maker) was sworn.

10. John Bonnar (of St. David-street, in the city of Edinburgh, painter) was sworn.

11. David Milne (of Queen-street, in the city of Edinburgh, merchant) was sworn.

Fran. Buc. Sydeserff.—*Pris.* I challenge him.

James Price.—*Pris.* I challenge him.

12. John Black (of Turk's Close, in the city of Edinburgh, woollen-draper) was sworn.

### LIST OF THE JURY.

Robert Young.	David Deuchar.
William Fraser.	Charles Robertson.
William Fettes.	George Rae.
James Lindsay.	John Bonnar.
James Hamilton.	David Milne.
Alexander Ponton.	John Black.

B

\* See the case of Robert Watt in the preceding Volume p. 1167.

† Taken in Short-hand by Mr. Blanchard. Of this case another, but imperfect, account was published similar to that of Watt's trial, which has already been noticed, *antè*, Vol. 23. p. 1167.



*Clerk of Arraignment.*—Count these. [He then called over the names of the Jurors sworn: they were accordingly counted.]

*Clerk of Arraignment.*—Cryer, make proclamation.

*Cryer.*—Oyez. If any one can inform my lords, the king's attorney general, or this inquest now to be taken, of the high treason, whereof the prisoner at the bar stands indicted, let them come forth, and they shall be heard; for now the prisoner stands at the bar upon his deliverance, and all others that are bound by recognizance to give evidence against the prisoner at the bar, let them come forth and give their evidence, or else they forfeit their recognizance; and all jurymen that have been called, and have appeared, and are not sworn, may depart the court.

*Clerk of Arraignment.*—David Downie, hold up your hand (which he did).

*Clerk of Arraignment to the Jury.*—Gentlemen, you that are sworn, look upon the prisoner, and hearken to his charge: he stands indicted by the name of David Downie, late of Edinburgh, in the county of Edinburgh, not having the fear of God in his heart, nor weighing the duty of his allegiance, but being moved as a false traitor against our lord the king, and wholly withdrawing the cordial love and true and due obedience, fidelity, and allegiance, which every true and faithful subject should, and of right ought to bear, towards our lord the king, and wickedly, maliciously, and traitorously, contriving to break and disturb the peace, and to change, subvert and overthrow the government happily established in this kingdom, and to excite, move, and raise insurrection, and rebellion, and to depose our lord the king from the government of Great Britain, and to put him to death, on the first day of March last, and on divers other days.—

The first overt act is, that he, on the first of March, did maliciously, wickedly, and traitorously meet, conspire, consult, and agree to cause and procure a meeting of divers subjects, to be assembled and held within the kingdom of Great Britain, under the name of a convention, for the purpose of assuming to themselves, at such meeting, the powers of government and legislation, over this kingdom, independent, and in defiance of the authority, and against the whole of the parliament of this kingdom, and of subverting and altering the rule and government, and deposing our lord the king from the government and royal state.

The second overt act is, that he met, and consulted to instigate, incite, encourage, and persuade the subjects of our lord the king, to cause and procure divers meetings and assemblies, for the purpose of choosing delegates from among themselves, to meet in a meeting under the name of a convention, to be held for the purpose of assuming to themselves the power of government, and legislation, and of deposing the king.

The third overt act is, that he met and as-

sembled to choose a convention to be held, the object of which was, to redress national grievances, by usurping to themselves the power of government and legislation of this kingdom, in defiance of the authority of parliament.

The fourth overt act is, consulting to bring about, in such convention, to be held without the consent of parliament, an alteration and change in the mode of representation, and instigating and inciting persons to send delegates to such convention, for the same purpose.

The fifth overt act is, that he conspired, with other false traitors, by force to oblige the king to alter the measures of government, and to comply with certain unlawful demands, propositions, and measures, to be thereafter made by him, relating to the king's administration of the government of this kingdom.

The sixth overt act is, that he conspired to raise, and make insurrection and rebellion, against our lord the king.

The seventh overt act is, that he conspired to oblige the king by force to comply with certain demands to be made by him, and consent to the introduction of regulations and measures respecting the government of this kingdom.

The eighth overt act is, that he conspired, consulted, and agreed with other false traitors, to seize and take the castle of Edinburgh into his possession, by force of arms, with guns, pikes, spears, battle-axes, and other offensive weapons, and to provide leaders to be appointed and instructed by him, and to lay in wait, and surprise the forces of our lord the king, stationed in the said Castle of Edinburgh, and to attack and fight them, and to take into his possession by force, the public banks, and excise office, and to seize and imprison the justice clerk, the lords of council and session, and judiciary, and the lord provost of Edinburgh.

The ninth overt act is, that he did instigate and incite divers subjects of our lord the king to consent to, and approve the last-mentioned traitorous proposals, and to aid and assist him in effecting, and carrying the same into execution.

The tenth overt act is, that he conspired and consulted with other false traitors, to procure arms for the purpose of arming himself and others, to enable him to resist the king in the legal exercise of his royal power and authority.

The eleventh overt act is, that he conspired to raise and levy money, the better to carry into effect his traitorous purposes aforesaid.

The twelfth overt act is, that he composed, printed, published, and dispersed certain malicious, wicked, and treasonable papers, and addresses, among the subjects of our lord the king, inciting them to contribute and subscribe money for the use of him, and other false traitors, and to appoint collectors, to collect and receive such money, and to send,



and to pay the same to him, with intent that such money should be accounted for, and disbursed in such way as should be most calculated to make, and raise insurrection and rebellion against the king.

The thirteenth overt act is, that he hired and employed John Fairley, to carry and disperse such papers as last aforesaid, and delivered him a great quantity for that purpose, with intent to incite the subjects of our said lord the king, forcibly to resist the king in the exercise of his authority, and to assist in prosecuting an attempt to be made to subvert the government.

The fourteenth overt act is, that he instructed the said John Fairley, to instigate, and incite the subjects of our said lord the king, to give assurance and support, and to remit such money as should be collected to him.

The fifteenth overt act is, that he employed the said John Fairley, to instigate and incite the subjects of our said lord the king, to procure arms, and to arm themselves, to resist the king, and to aid and assist him in subverting the government.

The sixteenth overt act is, that he employed William Brown, to make and procure arms, for arming himself and other false traitors, and paid them money for the same.

The seventeenth overt act is, that he employed Robert Orrock to make arms for the same purpose.

The eighteenth overt act is, that he concealed, and got into his possession arms, and kept them concealed in his dwelling house, in readiness to be made use of, for the traitorous purposes aforesaid, against the duty of his allegiance, against the form of the statute in such case made and provided, against the peace of our said lord the king, his crown and dignity.

Upon this indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his trial hath put himself upon God and the country, which country you are; your charge is, to inquire whether he be guilty of this high treason, whereof he stands indicted, or not guilty; if you find him guilty you are to inquire what goods and chattels lands and tenements, he had at the time of the high treason committed, or at any time since; if you find him not guilty, you are to inquire if he fled for it; if you find that he fled for it, you are to inquire of his goods and chattels, as if you had found him guilty; if you find him not guilty, and that he did not fly for it, you are to say so, and no more; and bearken to the evidence.

Mr. Dundas.—Gentlemen of the Jury, This is an indictment of high treason, against David Downie, the prisoner at the bar. You have heard the indictment read, and it is my duty to state the substance of it. Briefly, then, it is this.—The prisoner is charged with conspiring to assemble a convention, which was to usurp the government, and to new-

model, at their will, the constitution of the country. He is likewise charged with procuring offensive weapons, to arm the subjects of the country, in order to alter the form of the government, and to overawe, and restrain the conduct of the king, and compel him to comply with such measures as, to the prisoner and his associates, might seem proper, and expedient; and, finally, he is charged with having conveyed treasonable papers, with a view of influencing the army, corrupting the soldiers, and biasing them from their duty, and of exciting them to rebellion. The sum of all is, he has taken measures which, in the language of the law, extend to compass and imagine the death of the king,—to which he has pleaded Not Guilty.

The Lord Advocate.—My Lords;—Gentlemen of the Jury,—This is an indictment against the prisoner at the bar, for the crime of high treason; and it is my duty to state to you, shortly, the law, as it appears to me to stand, upon that subject, and the general nature and import of those facts, which on the part of the crown, and on that of the public, it is my duty to lay before you, and to support by evidence; of the truth or sufficiency of which evidence, you, as the representatives of the country, judging impartially, between the prosecutor on the one hand, and your fellow subjects on the other, are alone entitled, and have the power to determine,

Gentlemen, it must be perfectly well known to you, that, upon the happy event of the union of the two kingdoms, the systems of law which had prevailed in each country from the earliest history of both of them, were by that solemn treaty, settled and secured to each nation for ever. Soon after, however, and upon the best grounds of public expediency, an alteration took place, in respect to the crime of high treason, which, since that period, has, by the authority of parliament, been made the same for both kingdoms. It was just that it should be so; for, being united under the same sovereign, and under the same happy form of government, it was expedient and necessary, that as our allegiance was the same, the laws that punished the breach of it should be equally so.

Gentlemen, I shall not stop to inquire, whether we, in Scotland, gained, or may be supposed to have gained, or to have lost, by the introduction of the English law of treason; it is not material to the question you are now to try; but this I can state, without the hazard of contradiction upon the part of the prisoner, that the Scots laws of treason, previous to the union, were much more strict, and much more severe, than those which were established in England, under the protection of which we now live; and that some persons, who are now suffering \* under the common

\* Muir, Palmer, Skirving, Margarot, and Gerrald; whose cases see in the preceding Volume of this Collection.



law of Scotland, arbitrary punishments, for offences committed against it, would, if the Scots laws of treason had existed at the present moment, have been tried for their lives, under that law, and would have suffered the capital punishment which that law inflicted. I have no doubt you must also know, for it is a circumstance that has always been stated to the honour of the law of England, that from the days of king Edward 3rd to the present time, the law of treason has been governed by a statute, passed in the reign of that excellent prince; and that it remains the foundation of all the trials which have proceeded upon that subject.

It includes three distinct cases; and the statute is conceived in that short, simple, and precise style, for which the parliaments of our forefathers, at an early period, both in England and in Scotland, were so distinguished and remarkable. They left that brief, short, and concise statute, to be applied by the judges of the land, in after-times, to every case which appeared to them to fall within it; they busied not themselves with hunting out every minute case, which fancy might suggest, but they laid down, in plain and clear language, that conduct, and those leading facts, by which allegiance, in their apprehension, was broken, and left to the judicial authority of the laud to apply to subsequent cases, the distinct and plain rules by which the law of treason was settled and defined; and that statute, which has stood the test of centuries, and which has been discussed in every case that has since occurred, has now, and for a long time past in England, been fixed, explained, and settled, beyond the possibility of controversy, and beyond the reach of dispute; it has justified the wisdom of the parliament which enacted it, by the universal applause which this country has bestowed on it; and has received from all who have considered or written upon the subject, the strongest, and most just encomiums, as preserving, on the one hand, the constitution and government, and the safety of every member of that government, by punishment severe, if those under its protection are false enough to conspire for its downfall; and securing, at the same time, the liberty of the subject, and the safety of the highest as well as the meanest individual that lives under its protection, from the power of the crown, if ever attempted to be oppressively exerted, or stretched beyond the due limits of that authority with which the law and constitution has vested it for the security of the whole, and for the preservation of peace and of order.

Gentlemen, I stated to you, there were three points which formed the leading and prominent features of that act of parliament.

The first, in the order of the statute, and considered by the law as the most enormous in guilt, is—compassing or imagining the death of the king: the second, levying war

against the king: and the third, adhering to the enemies of the king.

In this case, with the last we have nothing to do. The charge, which has been opened in general to you, by my brother, falls, as you must have observed, under the first and most important of the whole, compassing and imagining the death of the sovereign; and, in the course of the evidence I shall afterwards open, you will find, that, to a certain extent, the second branch of the statute comes likewise under your consideration, though it forms not the ground work of the charge against the prisoner at your bar; for, according to the universal and concurrent authority of the greatest and ablest judges and lawyers, which any country ever produced, men, friends to the liberties, the religion, and the constitution of their country, a conspiracy, or consultation to levy war, or insurrection, against the government and the sovereign, even though that war should not be actually levied, but by vigilance checked in the bud, has been, with the fullest consideration, held to be an overt act of compassing and imagining the death of the sovereign, and to fall under that leading and principle branch of the statute.

Gentlemen, we have, since that law has been extended to us, had two rebellious in our country, but upon both those occasions, the persons guilty were, from peculiar circumstances, and under the authority of a special statute, tried in our sister kingdom. We have the misfortune, at the period we now live, to be almost the first, in the different situations of judges, jurymen, or prosecutors, called to the melancholy, but necessary exercise of the jurisdiction, according to the laws that prevail in our sister kingdom; and though the periods of rebellions, I trust, are past; although we all, for this century past, have had occasion to bless the constitution which our parents have established for us, which from them we have received, and which, I trust, we shall do our utmost to send down entire to our children, there exists, at the present moment, to the astonishment and grief of every virtuous, loyal, and well-disposed subject (from what source it originates I need not state), a conspiracy and combination, founded upon principles hostile, not only to our own, but to every other government, and subversive of all order, aided by men, who, detesting every form of government, have endeavoured to seduce the ignorant, the low, and the illiterate (who are incapable of considering those subjects), from their duty and allegiance; to excite the multitude to rebellion, and to rise in arms against that admirable constitution, in the possession of which every Briton exulted; and under the specious but false pretext of reform, to substitute instead of what we enjoy, something which these unhappy people themselves do not understand; an attempt which, if they had succeeded, would have produced the same dread-



ful consequences which have taken place in a neighbouring country; would have equally involved in it the life of our sovereign, and the existence of the legislature; would have subverted all laws, and annihilated all property, and, after destroying those persons employed in the service of the state, or members of its legislature, would have almost in the next immediate moment, descended on the heads of those most active and conspicuous in such a dreadful conspiracy.

Gentlemen, the words of the act of parliament state the law with sufficient accuracy for you to understand its meaning; and after reading that statute, you will be able, without any comment of mine, which as a Scots lawyer I should hardly pretend to give you, upon an English statute, to see what the law of treason is, or by what circumstances of conduct it is violated. The law of England, indeed, as the law of every free country ought to be on this subject, is so plain that every man who reads may understand and know precisely the law which he dares to violate.—For your farther satisfaction, however, I shall feel it my duty, not in my own words, but in those of the most distinguished lawyers of England, to lay before you those observations on the statute, which appeared to them material, and to state the cases, in their apprehension, that fall under the one or the other of the two branches of the act of parliament. I shall begin with Mr. Justice Foster, of whose name you have most of you no doubt heard, and read from him and Hawkins, and Mr. Justice Blackstone, the most modern of them all, a few pages upon the subject.

In that discourse which Mr. Justice Foster published soon after the rebellion 1746, upon the law of high treason, which, as from the eminence of his professional, as well as general character, and the particular circumstances of the times, he was called upon to consider with the most minute attention, so he possessed the ability of stating to his country, and posterity, what the law was on the subject, he, in his commentary upon the first branch of the statute, compassing the king's death, expresses himself in the following words:

"I have said, that, in the case of the king, the statute of treasons hath, with great propriety, retained the rule, *voluntas pro facto*, (the will for the deed). The principle upon which this is founded is too obvious to need much enlargement—the king is considered as the head of the body politic, and the members of that body are considered as united and kept together, by a political union with him, and with each other,—His life cannot, in the ordinary course of things, be taken away by treasonable practices, without involving a whole nation in blood and confusion."

I recollect, if I may be permitted to stop here, a quotation from a living author, I mean the present Lord Auckland, who, in his "*Principles of Penal Law*," has unquestionably

proved himself, by his writings, as great a friend to the liberty of the subject, as a decided enemy to any severe system of criminal jurisprudence; and who observes, that the circumstance of a sovereign being carried from his throne, and under the appearance of a mock trial, led to execution by his subjects, was (some few years ago) without a parallel. We live at an hour of this century, when his lordship's remark is no longer accurate, and when that circumstance is no longer peculiar to the history of Britain; when dreadful experience justifies the truth of Mr. Justice Foster's observation,—“That his life cannot be taken, in the ordinary course of things, without involving a whole nation in blood and confusion; consequently, every stroke levelled at his person, is, in the ordinary course of things, levelled at the public tranquillity; the law therefore tendereth the safety of the king, with an anxious, and, if I may use the expression, with a concern bordering upon jealousy: it considereth the wicked imaginations of the heart, in the same degree of guilt as if carried into actual execution, from the moment measures appear to have been taken to render them effectual; and therefore, if conspirators meet, and consult how to kill the king, though they do not then fall upon any scheme for that purpose, this is an overt act of compassing his death, and so are all means made use of, be it advice, persuasion, or command, to incite or encourage others to commit the fact, or to join in the attempts; and every person who but assenteth to any overtures for that purpose, will be involved in the same guilt.”

“And if a person be once present at a consultation for such purpose, and conceal it, having had a previous notice of the design of the meeting, this is an evidence proper to be left to the jury, of such assent; though the party say, or do nothing, at such consultation. The law is the same, if he is present at more than one such consultation, and doth not dissent or make a discovery. But, in the case of once falling into the company of conspirators, if the party met them accidentally, or upon some indifferent occasion, bare concealment, without express assent, will be but misprision of treason. The law was formerly more strict in this respect; ‘*si ad tempus dissimulaverit vel subcuerit, quasi consentiens et assentiens, erit seductor domini regis manifestus.*’

He then goes on:—“The care the law hath taken for the personal safety of the king, is not confined to actions, or attempts of the more flagitious kind, to assassination, or poison, or other attempts, directly and immediately aiming at his life; it is extended to every thing wilfully and deliberately done or attempted, whereby his life may be endangered; and, therefore, the entering into measures for deposing, or imprisoning him, or to get his person into the power of the conspirators,—these offences are overt acts of treason,



within this branch of the statute; for experience hath shown, that between the prisons and the graves of princes, the distance is very small."

It goes on:—"Offences which are not so personal as those already mentioned, have been, with great propriety, brought within the same rule, as having a tendency, though not so immediate, to the same fatal end: and, therefore, the entering into measures, in concert with foreigners and others, in order to an invasion of the kingdom, or going into a foreign country, or even proposing to go thither, to that end, and taking any steps in order thereto,—these offences are overt acts of compassing the king's death."

Gentlemen, from this you will observe, that any thing which has a tendency to touch the life or the safety of the sovereign, which is the smallest degree may in its consequences bring it into hazard, is, upon the principle of the quotation I first set out with, most justly held, and always has been, by every court of law, and every jury that tried the question, as the offence of compassing and imagining the death of the king, provided an overt act, or facts and circumstances, sufficient to satisfy your own consciences, that such was the parties intention, are proved, and which oblige you, by the oath you have taken, to return that verdict you think the evidence compels you to do.

Gentlemen, having stated this, I shall beg leave to trouble you with only another quotation from the same author, which is proper to be attended to, as peculiarly applicable to the facts I have afterwards to state, and which, I believe, will be made out to you by evidence. Relative to the second branch of the statute, and the manner in which that is referred to, as evidence of the prisoner being guilty, under the first branch of the act of parliament, the actual levying of war against the king, no body can question, is high treason. A consultation to levy war, if directly against the person of the king, is evidence of compassing or imagining his death, even though no war actually follows; and Mr. Justice Foster says,—“Every insurrection which, in the judgment of law, is intended against the person of the king, be it to dethrone or imprison him, or to oblige him to alter his measures of government, or to remove evil counsellors from about him, these risings all amount to levying war, within the statute, whether attended with the pomp and circumstances of open war, or not; and every conspiracy to levy war for these purposes, though not treason within the clause of levying war, is an overt act, within the other clause, compassing the king's death; for these purposes cannot be effected by numbers, and open force, without manifest danger to his person."

Gentlemen, having thus laid before you, what occurs to my mind as stating the law clearly; though I intended to refer to other

authorities,—I do not, upon recollection, think it necessary; and therefore shall proceed to state those facts under which, if in the sequel they shall be satisfactorily proved, it will be my duty to claim your judgment against that man.

You are all, I make no doubt, acquainted, that about two years ago, a number of persons in this country formed themselves into associations, or clubs, for the purpose, as it was said, of obtaining what they called a parliamentary reform, a reform of which you will hear more in the sequel, and which you will see proved by authentic documents, and papers before you, whatever the original movers of the plan intended, or whatever they professed to intend, to have been nothing else but a scheme to subvert the present system of government in this country, and to obtain what they call universal suffrage, and annual parliaments, without which some of those poor deluded people have been taught to think, they have not been free. They applied, as they had a right to apply, by petition to parliament, and the House of Commons, in its wisdom, and to its eternal honour, acting as it thought best for the safety of the country, and foreseeing what was couched under the application, rejected these petitions, and refused to listen to them. Being disappointed in this measure, it appears that some of those clubs and associations instantly set about looking out for other means, and you will have, as early as the month of May 1792, a letter from a club in London, called the London Corresponding Society, to a person of the name of Skirving in this country, who was secretary to another club in Scotland, or rather, as he has styled himself, secretary to a convention of all the clubs which had met upon that subject, and which had been industriously created in this country, in every corner of it. In that letter, which will be proved to you, Mr. Hardy,\* the secretary, states to Mr. Skirving, as the House of Commons have rejected their petition, it is now time, or proper to think of more effectual measures; and he desires to know from Mr. Skirving, and his friends in this country, what these more effectual measures are.

Mr. Skirving in another letter which will be proved to you, soon after answers Mr. Hardy's letter? I shall not at present read that letter; it will be afterwards read to you; but, I am convinced, you will think when that paper is laid before you, that although the writer of it did not at that time imagine it ever was to be produced here, from the beginning to the end, even at that early period, it points out a scheme, on the part of these men, to effect by force what they had not obtained by application, and a determination to establish a kind of government of their own, in this country, which in due time might have the effect of gaining by

\* See his trial in this Volume, post.



force and violence, what they had been refused in a legal constitutional way by parliament.

Gentlemen, we will also lay before you in evidence, a letter from Mr. Hardy to Mr. Skirving, of 5th October 1793, a few weeks preceding that remarkable event which took place in our native city, the assemblage of a British Convention, holding itself up as the representative body, not only of Scotland, but of many thousands in England, and assuming to itself the power, and stating that it would watch the proceedings of that legislature, which it was its object and purpose to destroy; and which went the length, at last, of voting, at noon-day, a determination not only to watch the proceedings of the parliament, but if the parliament dared to do any one of a variety of acts which they had the audacity to particularise, they would forcibly resist its authority, till compelled to desist by superior force. I shall prove that this convention, to which the London Corresponding Society, and other similar associations, sent delegates, went so far as to appoint a secret committee, for the purpose, in any of the specified cases, of calling together a convention of emergency at a place they kept secret, where the ringleaders of that conspiracy evidently, at that moment, thought they should be able to assemble, as a rallying point, in some corner of the country, such a force as would enable them to erect the standard of rebellion against the constitutional and legal authorities of the kingdom.

Gentlemen, you know, and we all of us know, who are obliged by our duty to attend to the proceedings of these men, and who will continue, by every means in our power, to trace them into their most secret recesses, that to the honour of him who is your chief magistrate, he went into the midst of that assembly, and, calumniated as he may have been for that act of magisterial authority, by the British Convention and its adherents,—I hope this kingdom, from one end to the other, feels towards him that gratitude, which is his due, for acting as he did, in dispersing that convention, and prohibiting it again from assembling within this city.

Gentlemen, you all recollect, prosecutions were brought against those persons, before the judges of Scotland, for the offence they had committed against the law of Scotland, and you all know, the ringleaders of that convention suffered that punishment which the law of Scotland awarded against persons so offending. And one would have imagined, that as the end of all punishments is not the destruction of the guilty, but that by salutary example, others may be warned not to tread in the same course, and to abandon what the country sanctioned as illegal, none would have been found again attempting to have committed an offence, for which some of their countrymen had so recently suffered; but I shall prove to you, gentlemen, that this

prisoner at your bar was a member of that convention.

*Prisoner.*—I was called as a witness upon Skirving's trial,\* to give testimony to the crown.

*Lord Advocate.*—My Lord, I must prove the existence of a conspiracy. I am entitled to prove that this man, after the trial (I am not trying him for any thing committed before), that he, being a member of the British Convention, did persevere in that course, and continued to act precisely as he had done before.

*Prisoner.*—My lord justice Clerk, is not this prejudicing the jury against me? Having given evidence upon Skirving's trial, nothing of that convention can affect me.

*Lord President.*—The lord advocate says, he does not mean to charge you with any thing prior to that trial, but to charge you with doing things after that time; and he is entitled to open his charge; that will not, and ought not to prejudice the minds of the jury. The jury know, though they must have a charge opened, they are not to proceed upon any charge or allegation whatever, on either side, till proof is brought forward; and they cannot believe any thing heard, without or within doors, except what is established by proof; that every gentleman there knows.

*Lord Advocate.*—I cannot, as I am entitled to do, accuse this man of continuing, and pursuing criminal measures, unless I state the measure in which he has continued. It is impossible I can prove to the jury, or accuse him of continuing in a course of illegal measures, unless I state also what the criminal measure is that he has persevered in; at the same time, if your lordships be of opinion I am stating what I have no right, or am not bound in duty to state against the prisoner, I am far from wishing to state what can criminate him, beyond what I feel my duty to do.

*Lord President.*—The counsel for the prisoner must be clear the lord advocate is going on only with what is proper.

*Mr. Cullen.*—The lord advocate is only stating what happened afterwards.

*Lord Advocate.*—I am only stating what happened afterwards.

*Mr. Anstruther.*—If the lord advocate states what is not evidence, the counsel will object to the admissibility of it; then will be the time for the objection.

*Lord Advocate.*—After the dispersion of the British convention, a number of persons, who were delegates to that convention, formed a new society in this city, of which society this person was one, did continue to assemble in these societies, and persevered in the same measures which was the object of the British convention to obtain, and the nature of which I mentioned. Being prohibited and prevented from assembling in the same mode which

\* See the case of Skirving, *ante*, Vol. 23 p. 534.

they had formerly adopted, they established, in the month of January last, what they called a general committee, and which afterwards obtained among themselves the appellation of a Committee of Union, consisting of a number of delegates chosen by each club, into which they had pleased to divide and subdivide themselves, in this city and the neighbourhood. I will prove they were the same persons, and the most active among the members of the British convention, whom the justice of the country permitted to remain in it after the trial and punishment of the principal actors. I shall show the measures they pursued in that committee were precisely the same, with this aggravation, that you find them gradually proceeding from less to more, until they attained that degree of criminality which led to a discovery of their proceedings, and checked them in their progress. You will find it proved, that, after sitting a certain period, and meeting regularly and progressively, from time to time, they at last subdivided themselves into an inferior and subordinate committee, to which they gave the appellation of a Sub-committee, or a Committee of Ways and Means: that this committee, in its formation, and in its structure, clearly will denote to you, that they were engaged in a deliberate, regular, and systematic plan, to subvert the government of the country: that this committee had absolute, uncontrollable and complete powers to collect money, and to dispose of that money in which way they pleased, after being collected, not from this city alone, but from every part of Scotland, where they could effectually solicit the aid of their friends: that the committee was to dispose of the money in the way most conducive to the great end, a mode of expression they sometimes used, when they obtained that money from those persons they thought their friends, though at other times it was falsely pretended to be applied to the relief of the wife of King George, who had been assassinated, because they understood that what the king said was for what the money was so devoted to this or that purpose.

I must now state to you, that this man was the head of that extraordinary association, called a Committee of Ways and Means, and was appointed its treasurer. We understand now to you, that immediately after the appointment of such a committee in the Street, and so on, accordingly, and all the delegates who had been sent by the London Corresponding Society, and were in the month of January last, assembled at the Golden-square, consisting of the members of 1,200 persons: that they took of the house of the British convention, and inserted their proceedings in the newspapers: that they voted thanks to the persons from the leader of Scotland had conducted a transportation, and they had the boldness to challenge as unconstitutional and unconstitutional in this country, the administration of criminal justice, and the

conduct of the supreme criminal court, in having presumed but to do its duty, by applying the established law of Scotland to those persons convicted before it, by an impartial and intelligent jury. They ordered 100,000 copies of an inflammatory address to be dispersed all over, and in every corner of this island, for what purpose it is for you to determine; with what attention it is your province to consider: they even, with a trivial exception, went the length of voting, in that society the very resolution for which the British convention had been stopt in Edinburgh; for which Margaret was then lying convicted in gaol; for which the jury of Scotland had found it their duty to convict and punish him.

Gentlemen, they also went the length of stating, by a paper which will also be laid before you, that now they were to expect no redress, unless from laws of their own making, not from the laws of their oppressors and plunderers: an expression which I defy the most lenient interpretation to construe in any other sense, when connected with those circumstances I have already stated, than a deep and fixed determination in their minds, to resist the laws and the legislature of their country, and to establish by force a government by themselves. If I went no farther than this, I should be entitled to say, that I had proved the indictment against those concerned in it: for if they succeeded in establishing any constitution and authority, which enabled them to enact and propose their own laws, the measure could not exist without subverting, in the first place, the legislature of the country, and the king, as a constituent part, and as he is an essential part of it, it follows of course, that in considering and proposing for such a measure, they are clearly and indisputably within the words of the act of amendment and quality of compassing and imagining the death of the king: even though the measure is taken, or no resolution is passed to be made, or even affecting the person of the king, still it necessarily involved his authority, as well as that of the other branches of the legislature, and of the executive power of them, involved in its overthrow, the power of the king, and the destruction of his right, state and rights: and comes next under the words and spirit of the intent of the statute I have stated. You will have observed that in the time addressed, the grew more numerous and bold. On the 14th of April last, upwards of 1,200 persons, composing the London Corresponding Society, assembled at Chancery, in the neighbourhood of London, and voted resolutions more flagrant than was formerly made in the Globe Tavern, and, after assuming the conduct of, naming, Margaret, and his associates, resolved to make steps to calling another British convention, which would be unconstitutional: and the said same kind of assembly, and the said same kind of object, and the British convention, which was again to be called and convened.



This I shall prove, by authentic documents, to be laid on your table, and evidence of witnesses brought from London, that 200,000 copies of those inflammatory resolutions were voted by this numerous and dangerous meeting, and circular letters, it will be proved, signed by Hardy, the secretary of that society, were intended to be sent to all parts of Great Britain, for the purpose of assembling, that convention. I will prove, that several of these letters were sent to different places in Scotland, and that answers were sent instantly, according to the proposal of choosing a delegate for this convention, who was to be ready to set out, as soon as notice was given to him from London, of the time and place of meeting; both of which were kept secret with the ringleaders, till the moment arrived when it should be judged proper to communicate it.

Gentlemen, I shall prove to you, that the prisoner at the bar was a member of the Committee of Union, and of Ways and Means, which was acting in this city at that time. That he was present at a meeting of that committee, where one of those letters from Hardy was laid before them. I shall prove to you what passed at that meeting; I shall prove to you, that an answer was agreed to be given. I shall prove to you that that answer was sent by a person of the name of Stock, who is not to be found, but who is a member of that committee; and that a correspondence was to take place, and continue between Mr. Hardy and the person that was most active in this committee, of which the prisoner was one of the members; likewise, that about this time, in the month of April, the Committee of Ways and Means began to take more decisive measures, in prosecution of that traitorous attempt, which had all along clearly been their object; for, having established themselves in the manner I have just now stated, about this period, they went the length of endeavouring, in the first place, to delatch the soldiery in this country, to excite them to mutiny, disobedience, and rebellion; of endeavouring, as it was necessary for them to do, to bring them over to their side, or at least to excite them to sedition, which in their apprehension would tend to that end; and I shall prove, while a regiment of Fencibles were quartered at Dalkeith, and were marching to England, whither they had voluntarily agreed to go, they were attempted to be seduced to refuse to go, and rebel against their officers, by a paper addressed to the Fencibles, which was composed in that Committee of Ways and Means, and which was printed by a man, a ringleader in that committee, and circulated by this prisoner at the bar, giving it himself to a person who instantly went out and conveyed it to certain soldiers in that regiment, although, to the honour of that regiment, the attempt failed of its effect. I shall prove likewise, and it is material for you to attend to it, that this man received considerable sums of money, as trea-

surer of that Committee of Ways and Means, and for the purpose which I formerly stated to you, and as he had received that money, he actually applied it to the real and true, not to the pretended purposes for which it was collected; and I will prove to you, what must have been the great cause for which this money was so solicited, paid, and so received by Mr. Downie, and that applied to no other purpose, can leave no man's mind to doubt it was as direct a conspiracy and rebellion against the king and the government of this country, as any which occurred in 1715 or 1745: for I will prove at one of these meetings of the Committee of Ways and Means, a person, being one of the five who composed it, Mr. Downie being one of them, did propose and read from a paper, a scheme, which was actually a plan to raise an insurrection, in the dead of the night, in the middle of this city, which had for its object the arresting the persons of your first magistrate, the judges of the high court of judicature, and the principal officers of justice; the seizure of the Castle of Edinburgh, the banks, and public offices; a scheme, in short, of a regular conspiracy against the government of the country. Five were present;—the proposer of the plan was one;—of the other four, two, struck with horror at the proposition, signified their disapprobation; the remaining two, being the prisoner at the bar, and Mr. Stock, who were present in that meeting, not accidentally, or upon an indifferent occasion, but clearly, with a deliberate and treasonable purpose, not only did not dissent, as the other two had done, but proved, by their conduct, their complete approbation of it.

I shall prove to you, that the prisoner afterwards met, in that same committee, with those same persons, and after the breaking up of the committee, at one of these meetings, concurred in sending a person to the west of Scotland, to sound the dispositions of the different towns, to which he was sent, as an ambassador, and to communicate to them the plans and scheme, formed by this Committee of Ways and Means; and that man was furnished with money for that purpose, by Mr. Downie, the prisoner: that he returned a faithful account of his mission: and that, when he reported to the committee the result of his inquiries, the prisoner Downie was present. I shall prove that report to be the hand-writing of that person, upon reading which, you can form but one opinion, that no person who, acting in that committee, heard that paper read, can be doubted, the moment he heard it read, as agreeing to the scheme which had formerly been proposed, as much as if he had proposed it. I shall prove to you, that arms, of a very dangerous and particular structure, were ordered by the person who made the proposition which I have just now stated: that he, and the prisoner at the bar, employed two smiths, whom they instructed to make them, in a private



and concealed way : that one of them, bringing to the other person some of the pikes, spears, and battle-axes he had made, was, upon applying for payment, sent to Mr. Downie, and received the payment accordingly. I shall prove that this city, divided before into clubs and societies, was again subdivided by this committee, into smaller divisions, of 10, 15, or 20 persons each, under the command of the collectors, whom the committee named, by whose orders they acted, and who were in this way to draw out the people, after they had been properly armed, in a moment, so as to act with unanimity, force, and vigour, in pursuance of the scheme, as soon as it was ripe to be carried into execution. If I succeed in proving all this, you may judge otherwise ; but it appears to me, even if you were to differ from me with respect to the first part of the case submitted to your consideration, regarding his accession to the plan of calling a new convention, that was to subvert the government, and endanger the person of our sovereign ;—yet, if I prove the preparing the arms, and all the circumstances I have just now detailed, you cannot have a doubt, upon the authority of Mr. Justice Foster, in being of opinion, that this man has conspired to levy war and rebellion against the king and government of the country, for the purpose of making his majesty alter his measures of government, and the constitution of the kingdom.

I forgot to state one material circumstance, which I shall also bring home to Mr. Downie, beyond the possibility of dispute, that after the above-mentioned plan was carried into execution, this committee were to issue a proclamation, ordering all farmers, and the people possessed of victuals, hay, corn, and meal, to bring them in, for the purpose of being disposed of to the public advantage. That the country gentlemen were not to leave their habitations under pain of death, or go more than three miles distant from home ; and they were to send a proclamation to the king, stating, that if he did not give up the war we are now engaged in with France, and dismiss his present ministers, he must either stand by the consequences, or the peril of his refusal would lie with himself. If I prove that case, I leave it to your consideration what the result of your opinions must be, and what the verdict, which, under your oaths you must give, looking to the safety of your country on the one hand, to the just security of your fellow-subjects on the other, and keeping in view, as I know you will do, the great and leading rules essential to the equal distribution of justice.

Mr. Anstruther.—We propose to produce all the papers at once, to call the witnesses to prove them, and then read them together.

#### EVIDENCE FOR THE CROWN.

Mr. William Scott (procurator fiscal) sworn.

Mr. Anstruther.—What are those papers, sir?—They are part of the papers that

were found in the possession of Mr. Skirving.

Look at them, and tell me whether any of them are Skirving's hand-writing [Showing him one.] Is that Mr. Skirving's hand-writing?—This letter has the subscription of Mr. Skirving.

It is his hand-writing?—The subscription is his hand-writing ; I have seen him write.

What are these other papers?—This is a scroll copy of the minutes of the British Convention,\* found on the 5th of December, in consequence of a search, by virtue of a warrant from the Sheriff. This was also found at the same time. They were all found in Skirving's possession.

All those papers?—All those papers.

The Prisoner said, he hoped the Court would consider he had been promised, nothing that passed upon examination as a witness, should be given in evidence against him.

Mr. Cullen.—In consequence of what you have just now heard from the prisoner at the bar, I conceive it to be my duty to call the attention of the Court to the circumstances he has suggested. I am not perfectly sure if I fully understand the indictment, for it is in a form I am little acquainted with. In so far as I am able to come at its meaning, amidst the multiplicity of words in which it is involved, it seems to me to criminate the prisoner for having been a member of the British Convention which met at Edinburgh, in December last ; and in being busy to procure another Convention which never did meet, but which, it is said, would have been actuated by principles of a similar kind.

If, however, there be any criminality intended to be fixed on Mr. Downie, for having been a member, or concerned in the British Convention, I submit to your lordships, that it is not competent for the prosecutor to bring in evidence any facts in order to attach guilt to the prisoner on that account. In the prosecution last winter against Margaret, Gerald, and others, for being concerned in that Convention, the public prosecutor adduced Mr. Downie as a witness, and he accordingly gave a fair and full evidence. Now I conceive, that by the law of this country, no person, adduced in such circumstances as a witness, can, after having fairly given his evidence, be held liable to be prosecuted himself, for having been concerned in that alleged criminal act. The very bringing him as a witness, entitles him to be protected against any prosecution on that account, nor can any circumstance, tending to show the criminality of that Convention, or of his having been concerned in it, be admitted as competent to be proved and brought into the scale against him, in a trial for another crime. This appears to me to be so strongly founded in good sense, and to be so clearly the principle of our law, that I hum-

\* See the minutes of the British Convention prefixed to the trial of Skirving *anté* Vol. 23. p. 391.



bly submit that the evidence now offered cannot be received.

*Mr. Clerk.*—When Downie was examined as a witness on that occasion, he received the most solemn assurance from the Court, that nothing he should then declare should militate against him on any future occasion, on any pretence whatever.

*Mr. Anstruther.*—If the counsel for Downie had read the indictment with care, they would have seen, that he is not in that indictment, charged with being a member of that Convention, or any convention; I am neither accusing him of that, nor trying him for it. I am accusing him of endeavouring to procure, entering into measures to procure a convention, to meet at a future period, and of exciting the subjects of his majesty to send delegates to such convention, not a past convention, but a future convention; therefore there is nothing in this indictment which affects Downie at all, or attempts to affect him, on the score of the old convention—I mean that which met in December; but I will be candid enough to say, that I do mean to give in evidence the acts of the British Convention; not to try Mr. Downie for any thing he did in the British Convention; the charge against him is meeting in a Committee of Union, to carry on plans and projects for assembling another British Convention, at a time posterior to the dispersion of the British Convention, and taking measures with others, with a view to call another and similar convention, at a period then to come; but for that purpose, when I charge him with having endeavoured to call another British Convention, and endeavouring to further the views of the last, I must show what the British Convention was, and what the views of that convention were, not as a crime against Downie, but to explain the acts he subsequently did.

*Mr. Anstruther.*—Those are the minutes of Skirving found in the Convention?—Yes.

What is that?—That is a paper found upon Mr. Sinclair. This paper was along with it.

*Mr. Taylor* sworn.

You live in London?—I do.

In Fleet-street?—In Fleet-street.

Do you know Mr. Hardy?—I do.

Who is he?—Secretary to the London Corresponding Society.

Were you a member of it?—I was.

Explain what it was?—It is an aggregate society, of 5 or 6,000 persons divided into divisions 30 in number; each division had a delegate; there was a permanent committee constituted of these delegates; they met on the Thursday evening, and on the subsequent night of meeting of each division, the delegates reported the proceedings of that division; there were other committees of the Society of Correspondence; a Committee of Constitution; also, a Committee of Revision of Constitution; but that committee, as soon as they revised, and re-corrected the re-

port of the first committee, did not sit any longer; there was lately a Committee of Emergency. The Committee of Revision of the Constitution brought forward a report of the Constitution, founded on two heads,—First, a declaration of rights, and secondly, an organization of that Society. In the declaration of rights, in one article or section—

I do not want to prove that, but only they met for that purpose. Were you ever present at a meeting at the Globe tavern?—I was.

When was it?—The 20th January 1794.

Who was present?—Martin.

Did they come to any resolutions?—They did to several.

*Mr. Baron Norton.*—That was a general meeting?—Yes.

How many people might there be?—It was said about 1,000.

Look at that paper?—That is a copy of the resolutions that were then passed.

From whom did you receive that?—From a person of the name of Moore.

Was Mr. Hardy present?—He was.

State what he said.—I called on Mr. Hardy by the direction of Mr. Thelwall, who commented upon that general meeting; I asked him for one of these papers called addresses; he said he had none himself, but if I would apply to the secretary of the London Corresponding Society, he would give me one. I waited upon Mr. Hardy, and he was conversing with two persons, one I understood to be Moore. He said to Moore “Have you any of those papers in your pocket of the general meeting?” Moore answered, “I have not one now, if he will go with me to Princes-street, I will give him one there.” Hardy desired him to look into his pocket, which he did, and gave it me.

You received it from Moore, in the presence of Hardy, as resolutions come to that night?—Exactly so.

Look at that.—These are the resolutions of a general meeting of the London Corresponding Society, of the 14th April, at Chalk farm.

Are they the same?—To the best of my recollection they are the same; there is a little variation in the wording of a resolution.

Have you stated where you received that paper?—No, sir, I have not. I received this paper in the 2d division, on the Monday following, that is, on the 22d April.

Were you present at any meeting at Chalk farm?—I was.

On what day?—The 14th April.

What was the meeting for?—It was a general meeting of the London Corresponding Society.

By what sort of summons were you called?—There was information prior to that, given in the several divisions, that a meeting of that kind would take place that day.

Were there any tickets delivered for the meeting?—There was.

How many people might be there?—It was supposed between 2 and 3,000.



Where is Chalk farm?—In the road from London to Hampstead.

Did they ever meet in Store street?—It was proposed to meet in a private room in Store street.

Why did they not?—It was said they received notice from a magistrate to the man of the house, not to permit the meeting; two persons were fixed at the door of the house in Store street, No. 8, with small slips of paper, with words printed upon it, "Chalk farm, Hampstead road."

Did that paper come to the committee?—Several.

Where did you receive that paper?—In the 2d division, on Monday the 21st April.

From whom?—From Hardy; he brought them into the division; I conceived him to bring them in his official capacity, as secretary of the society; he laid them upon the table for the several members' use.

Was Hardy present at Chalk farm?—He was present; I did not see him take any active part, but he was there.

Who put those resolutions?—The chairman.

Who was the chairman?—Lovett.

Were these resolutions come to?—They were.

Is there any alteration in them?—To the best of my recollection, in one there is; the words that passed in the meeting, were, that the present administration, in advising the present proceedings, was guilty of high treason. In these, I believe it is rather put as a question, by saying, are they not guilty of high treason by such advice?

Are they the resolutions, except that difference, in the paper you received from Hardy?—They are.

Will you be so good as look at the papers, and tell me whose hand-writing they are? whose hand-writing is T. Hardy?—Having seen Mr. Hardy, as secretary, frequently write, in the divisions, I firmly believe that to be his hand-writing; also that, and that [holding different papers]; and this I believe to be Mr. Hardy's signature; the letter is in another hand; the letter does not appear to be his hand-writing; this also is the signature, but not the body of the letter; I also believe that is his signature, and the whole of this I believe to be his hand-writing [speaking of several papers produced.]

#### Cross-examination.

Where do you live?—No. 35, Fleet-street.

What is your occupation?—I have no trade.

How do you usually employ yourself?—I have none but for my amusement.

How do you amuse yourself generally?—I have several ways, with my family.

You say you are a member of the Corresponding Society?—I am.

Are you a member of any other societies?—No, sir, not of that sort.

Why do you say not of that sort?—Because there are others.

Do you mean to say, that you were not a member of the London Corresponding Society for any other purpose but amusement?—I became a member of the London Corresponding Society for no other purpose but amusement. I had no other view; no view to give information of what passed there.

How long were you a member of the London Corresponding Society?—I became a member of the London Corresponding Society the 27th of January.

Do you trust to your memory for every thing that passed there?—I do not, I took some notes of matters that passed there?

When did you take your notes?—Immediately on quitting it.

Did you take them regularly?—I took them regularly after I came home.

Have you your notes about you?—I have.

Be so good as to produce them.—Yes, sir.

That is a large volume of notes?—Yes.

Can you favour me with reading a small part of them, only a few lines.

Mr. *Anstruther*.—You may have all read if you please.

*Counsel for the Defendant*.—No, sir, I do not want them all read.

*Witness*.—The first is at a meeting of the London Corresponding Society, at the Globe tavern, Fleet street, on Monday, January 20th, 1794. "Mr. Martin, by the appellation of Citizen Martin, was called to the chair; he addressed the meeting in a short speech, signifying the intention of calling them together, which was for the purpose of the society at large adopting the several resolutions that had been prepared for the occasion, and which would be read and submitted to their consideration."

Stop there, you begin with a particular phrase, Mr. Martin, by the appellation of Citizen Martin,—why do you say by the name of Citizen Martin?—If I am at a loss, and misunderstood the language, I am sorry for it; but Mr. Martin was not so called, as he usually is, Mr. Martin, but Citizen Martin.

Is that common there?—It is, sir.

No person or member of that society, I suppose, would address another in that society in that manner?—I beg pardon; that was the mode of address of every member of that society in common; and accidentally meeting in the street, it is common to address them by that name.

Have you always used the appellation of Citizen such a one?—I have not always used it, not considering it necessary; and as to the minutes, I made them for my own observation and amusement.

Did you make use of those minutes for your own amusement?—I did.

And upon oath you made them for your own amusement?—I consider myself standing in that situation: I am before God and this high tribunal, and would not say an untruth for any consideration.

You say you made them for your own



amusement, and for no other purpose, and with no other view?—No other view.

Did you afterwards give no information about it?—I had instructions to attend the privy council, and passed through examination, and I was asked whether I had made notes; I said I had, and I was desired to send for those notes.

When were you examined before the privy council?—About the 14th or 15th of May.

Tell the story how you came there?—I accidentally met a friend on the street, he said, "have you a mind to go to the Globe tavern in Fleet Street? I have a ticket, if you will go, you may be amused." I did go.

Mr. Anstruther.—When was that?—On the 20th of January. I went, I made my observations, and heard the resolutions. Mr. Thelwall read the resolutions; it struck me very forcibly from his manner. My friend said, you had better become a member; I did; I had not then a knowledge of any member in his individual capacity, but as a collective body. I found their principles very different from what I was acquainted with; I considered them, and thought them persons that meant to overturn the constitution. I went as a spectator.

Mr. Clerk, counsel for the Defendant.—Was it at the first meeting you thought so?—Not immediately—at the first meeting I thought it extraordinary.

Notwithstanding on the 20th of January you found their principles so extremely different from yours, you continued to attend?—I was induced to do so from curiosity.

Why did you not then give information to government?—I was perfectly unacquainted with every person of government till afterwards.

They are very well known, you might have easily got access to them?—Having so little knowledge of them, and being so trifling an individual, I never attempted it.

Did you ever assent to the resolutions?—I never absolutely assented by the manner their resolutions were passed, in the affirmative or negative, by show of hands.

What was the name of the friend who introduced you?—Do you mean my particular friend?—there is a ceremony of being introduced.

Who introduced you to the Globe tavern?—Mr. Samuel Webb.

He introduced you to the society,—what was the reason that induced him to introduce you?

Mr. Anstruther. What does it signify what induced Mr. Webb?

Counsel for Prisoner.—The question I mean to draw him to is this, did he publicly profess views that might induce Webb or others to desire him to visit the society, or become a member?—No, I made my observations to him, being struck with the novelty of the scene; he said you might as well become a member.

Were the people who took you there en-

tirely unacquainted with your political sentiments?—I went with my friend that produced the ticket and gave it me;—he was engaged himself, and asked if I would go to dinner.—I conceived I was only going to join a convivial party.

Did the landlord or any body else pay any thing in to carry on the society?—Yes.

Did you?—Yes: the expence was 13d. at being made, and one penny at each meeting.

Mr. Anstruther.—This gentleman has desired you to state one part of what passed on the 20th of January, at the Globe tavern; be so good to state what passed then at that meeting?—"These resolutions were then read by a young man who stood next the chairman, whose name I afterwards understood was Richter, first one, then the other; then singly, and the question was put upon each by the chairman, and most of them, by a show of hands, were carried unanimously."

Counsel for Prisoner.—I have heard of witnesses refreshing their memory, but never heard them read their notes.

Lord Advocate.—Mr. Clerk ordered him to do it—He is reading his journal verbatim by way of evidence, just now.

Mr. Baron Norton.—His papers cannot mistake, therefore I think he had better read them.

Counsel for Prisoner.—Were they made at the time?—Yes; soon after they were. "Mr. Thelwall on the conclusion rose, repeated those resolutions, and commented upon them in very bold and strong language, recommending their adoption, adding, that if ministry attempted to land any foreign mercenaries, or subsidized troops, then to repel force by force."

"There were near 1,000 persons assembled, 500 of which stayed, and partook of a dinner provided on the occasion. Soon after the cloth was drawn, Thelwall took the chair, gave several toasts,—first, the Rights of Man, and sung many Republican songs; most of those songs were afterwards printed, and sold by him in the several divisions, and at his lectures."

"Thelwall and John Williams were two of the stewards on this occasion,—Gerrald was also present, and, I believe a steward."

Mr. Anstruther.—I have no more questions to ask this witness.

Mr. Clerk.—You say you were examined by the privy council, how came you to be examined by them?—I was sent for, as many of the members were.

Had you made any application to the members of the privy council?—I had not.

It was not by your own means you were sent for to the privy council?—No.

Nor by any suggestion of yours?—No, sir.

What induced you to come down here?—I heard you say you live in London, are you upon a visit?—No, sir, I came down here from the privy council, with one of the king's messengers.

At your own expence?—At present.

*Lord Advocate.*—You were there the 19th of May?—Yes, I was examined before the privy council.

And Hardy was taken up on the 19th?—On the 19th: Am I to receive those two papers now?

*Mr. Anstruther.*—No, sir, when the jury have done with them.

*Mr. Lausun* sworn.

Look at that paper sir,—see if you know it?—Yes, sir, I know it very well,—it is a letter I found in a book case in Hardy's house.

Were you employed to take him up?—Yes, I had a warrant from the secretary of state.

You took him into custody, and searched his house?—Yes, I did.

And you found that paper?—Yes.

Look at that, you found that at the same time?—Yes, sir.

*Lord Advocate.*—It is a letter signed William Skirving, dated 25th May 1793,—he found those papers in Hardy's house, under a warrant from the secretary of state, and took that man in custody, and the printed letter you will have read, signed Thomas Hardy.

*Mr. Anstruther.*—What are you?—One of the king's messengers.

By virtue of a warrant from the secretary of state, you took him up, and found these papers?—Yes I did.

*Alexander Aucherson* sworn—according to the Scots form.

*Mr. Anstruther.*—Now recollect that you are upon your oath, and you will recollect the consequences of standing in that situation.—Look at those papers,—do not tell me what they are: but whether they are your handwriting?—The greater part are my handwriting.

Show me which part of it is your handwriting?—The list, sir, is my hand, and all these.

What is the list?—A list of the members of the delegates of the British Convention.

Was David Downie a member of the Convention?—If he was, his name will appear as a member.

Were you secretary to that Convention?—I was only assistant to Mr. Skirving, who was secretary.

It was your business to receive the motions that were given in?—That was part of it.

Is that name, "David Downie," your handwriting?—[No answer.]

*Mr. Cullen.*—You said you would produce the proceedings of the British Convention, to show the intention of them, but would not show any thing in them to show David Downie was concerned with them?

*Lord Advocate.*—After the answer the Solicitor general gave, I trust your lordships will hardly doubt I am entitled to prove them.

*Mr. Clerk.*—The answer made by Mr. Solicitor-general, upon the occasion alluded to, is applicable to the present objection. We

then insisted that you could not prove the proceedings of the late Convention. But we now make a very different objection, which is this; let the proceedings of that Convention be what they may, you cannot be allowed to prove that the prisoner was a member of it, and therefore, you are not entitled to produce the minutes with that view, or to take notice whether the prisoner's name appears in them or not. The prisoner is not charged in the indictment, with having been a member of the late convention, nor could such a charge have been received by the Court; because the prisoner was examined as a witness for the crown, with regard to the proceedings of the Convention. But evidence, applying to a charge which is not made, and which could not be received if it were made, is totally inadmissible. Neither is this evidence at all necessary to the prosecutor's case. The prisoner is only charged with a conspiracy to form a new convention, alleged to be similar in its nature to the late Convention, and it is said, that the late Convention was of a criminal nature. All that is necessary, therefore, to be proved, with regard to the late Convention, is, that it was of a criminal nature; and it is of no consequence to the prosecutor's case, whether the prisoner was a member of it or not.

*Mr. Anstruther.*—I charge him with continuing to promote the views of the British convention, and being aiding and assisting towards calling another and similar convention; in order to prove what another and similar convention was, I must prove what this was, and that Downie knew what it was.

*Mr. Cullen.*—Mr. Anstruther's answer to me was, I do not care whether Downie was a member of the British Convention or not; all I mean to show is, a convention then met, and had certain objects in their view, and came to certain resolutions;—that is what Mr. Anstruther had alone in his mind: now, he goes to show David Downie was a member of that Convention, which I apprehend has nothing to do with the case; and any thing concerning David Downie with the Convention, or in that Convention, is not now to be gone into consistently with the assurances he received on the former trials, that he was not to be brought into question for it.

*Mr. Anstruther.*—I thought the objection made, and I answered it.

*Mr. Clerk.*—It seems to be acknowledged, on all hands, that they went upon unwarrantable proceedings: they were charged with sedition.

*Mr. Anstruther.*—Remove the witness.

*Mr. Clerk.*—We have formerly heard it stated, from the highest authority on the bench, that to say a man had been a member of that convention, was to accuse him of the crime of sedition. But according to the doctrines laid down since this court was opened, the conduct of that convention amounted to a crime somewhat higher than sedition; in



short, it was treasonable. And the lord advocate has expressly said, that the London Corresponding Society, with which the late Convention was connected, had treasonable projects in view, from which the plain inference is, that the late Convention, before its dispersion, was guilty of high treason. It would follow, that by proving the prisoner to have been a member of that Convention, a charge of high treason would be proved against him; for it must be supposed, that he was accessory to the common guilt. This is breaking faith with the prisoner, and directly against law, as he was examined as a witness for the crown, with regard to the proceedings of the convention; and it would create an improper influence on the minds of the jury, and perplex the question upon which they are to give a verdict. The prisoner is indicted for high treason, and the jury are to determine by their verdict, whether he has been guilty of high treason, or not. A specific treason is charged in the indictment, and the prosecutor would now attempt to prove another treason, which neither is, nor could be stated in the indictment. This is to confound and perplex the jury with distinctions between treasons charged but not proved, and treasons proved but not charged.

Mr. Austrether.—He is not indicted for being a member of the British Convention, or for any thing he did there.

Lord President.—Suppose the question were put in this manner, “Do you know that the prisoner had access to be acquainted with the proceedings of that first Convention?” Have you any objection to that?

Mr. Callen and Mr. Clerk.—No.

Lord Advocate.—I have no objection to its being put in that way—call in the witness.

Lord President.—Mr. Aitcheson, take notice, I do not mean to ask whether Mr. Downie was or not a member of that Convention, but I put this question to you,—do you know whether Mr. Downie had access to know what were the proceedings of the first Convention?—Had he or not access to know the nature of the business done in that Convention or their proceedings?—I suppose he had access to know it from news-papers; and a number of people were visitors; he might have access; but whether he had or not knowledge of it, I cannot tell; he certainly had access, and the public had access.

Do you know he had access yourself?—I have seen him there.

Do you know your own hand-writing?—Yes, I know this.

Where did you write that?—I wrote that I think in the Committee of Union.

What is the date of it?—I think it has no date.

Do you know George Ross's hand-writing?—Yes, I have a guess at it.

Mr. Callen.—There is one thing I submit to your lordships, because I conceive it to be the law, not only of Scotland, but of every

other country whatever, that no witness can be asked a question, the answer to which may criminate himself; if he is called upon to give evidence with respect to the proceedings of the British Convention, the answer may criminate himself, and therefore I submit that the witness ought to be put upon his guard, and ought to be told that he is not obliged to answer any question that he thinks may have that effect.

Mr. Clerk.—There is a very great difference between the law of England, and the law of Scotland, upon this subject. In the Scots criminal courts, when a *socius criminis* is adduced as a witness for the crown, he is told by the judge, that his evidence will not militate against himself, and even, that by giving his evidence, he is secured from any future prosecution, upon the facts to which it relates.\* He is therefore bound by his oath to tell the truth, and the whole truth, without any exception of such truths as may involve himself in the guilt of the prisoner. It is *pars judicis* to give him this information, and every lawyer who hears me, knows it is the universal practice. But, my lords, this is an English court, and the law of England is very different. A witness by giving evidence for the crown, does not discharge himself of the crime. He may afterwards be prosecuted for the same crime, and there are even cases, in which the very deposition of the prisoner, when formerly examined as a witness, has been used as evidence in order to convict himself. This being the rule of English law, a witness is not bound to speak the whole truth. He is entitled to make a reservation of such truths as would involve him in guilt; and if any question is put, the answer to which would criminate him, he may refuse to answer that question. My lords, I know it will be said, on the part of the prosecutor (I heard it urged the other day on Watt's trial, but it did not satisfy me), that the witness himself is the best judge of what may involve him in guilt: and it is said, that if a witness might be brought to trial, upon the same facts with regard to which he had given evidence, there would be an end to evidence by a *socius criminis*. With regard to these objections, the witness is no doubt the ultimate judge, how far he is in safety to answer the questions that are put to him. But every witness is not a lawyer; he may be mistaken in his opinion, and therefore he ought to be put on his guard by the Court. Accordingly, my information is, that in England, it is held to be the duty of the judge, to put the witness on his guard, whenever a question is asked, the answer to which may criminate him; and after he is so put on his guard, he answers the question or not, as he pleases. As to *socii criminis*, I believe very little could be had in England from

\* As to the evidence of a *socius criminis*, see the notes Vol. 10, p. 781; Vol. 11, p. 1053, & Vol. 13, p. 194, of this Collection.



their evidence if they did not previously receive such assurances as they could rely upon that they should not be prosecuted. They are entitled to warning as well as others, with regard to what part of their evidence may militate against them; but they may find it more prudent to give their evidence, than to run a much greater risk from not giving their evidence.—But besides the duty of the Court in this respect, I am informed that, in practice, the prisoner's counsel are allowed to suggest to the Court, what questions may endanger the witness. The prisoner has plainly an interest, that the witness should not be entrapped by such questions.—And therefore, I do humbly presume, that the witness will be put on his guard by your lordships, against such questions as may involve himself in guilt, especially where the guilt is alleged to be no less than high treason.

*Lord Advocate.*—I shall not trouble your lordships with many observations; but one thing dropped from Mr. Clerk, which was, that he had an interest in the witness not answering; upon which I must make one remark. Whatever may be the interest of the prisoner, or of the prosecutor, it is for the interest of the country, that the truth should prevail.—It may be the privilege of the witness, if he chooses, not to answer any question; but the counsel has not the privilege of telling the witness, that he shall not answer the Court upon oath, if he pleases.

*Mr. Cullen.*—When I understand the rule, I shall comply with it; what I am going to notice, is a case the gentlemen will not probably have forgot, a very recent one. It was that of Mr. Purefoy for killing colonel Roper, tried before Mr. Baron Hotham. A question was put to a general officer, to which the counsel for the prisoner objected as the answer might involve him in criminality himself; upon long arguments the judge determined it would, and it was put in another shape.

*Mr. Anstruther.*—I believe Mr. Cullen's authority for this is no other than a news-paper: it must be otherwise: it cannot be doubted that the witness may answer if he pleases.

*Lord Chief Baron.*—There is no principle more settled in the course of administration of justice, than that no witness is bound to criminate himself in giving evidence. Judges often give notice of this to the witness; but the doing it or not, is a matter of discretion, which ought to rest with the judge, according to the situation in which the witness happens to be placed; the parties have no title to interfere.

*Mr. Baron Norton.*—The principles of common reason and law, will not oblige a witness to give answers to criminate himself; but there is nothing to prevent his doing it; nor is it for the prisoner's counsel to make that objection: the lord advocate has not said, that he is afterwards to try this witness, nor could he with propriety be brought to trial;

†

he is therefore at full liberty to speak out the truth.

*Mr. Anstruther.*—It is clear, the witness could not criminate himself in answering this question, he is only asked if that paper was Ross's hand-writing.

*Lord President.*—In civil courts, it sometimes happens that witnesses are adduced to give evidence, upon facts of a criminal nature, between parties who have no authority or power to discharge the prosecution before a court of criminal jurisdiction, if any such shall arise out of the facts thus meant to be given in evidence. In such a case, and where the question put tends to draw an answer which may criminate the witness himself, I understand it to be the duty of the judge, to give notice to the witness, that he is at liberty to decline making an answer to the question, on account of the effect which it may have against himself; not that the answer, if made, could be used as evidence elsewhere, but that it might lay a foundation for his being prosecuted, by giving information of his own guilt. But, with respect to the proceedings in courts of criminal jurisdiction, with which I had occasion to be well acquainted, as public prosecutor, for several years, I know that it is common, and often necessary, to admit accomplices in the crime, as witnesses against the prisoner, otherwise crimes would too often go unpunished. But I always understood it to be a settled rule, that his majesty's advocate prosecuting for the King, could not, after making such use of an accomplice, or *socius criminis*, bring the witness himself to trial for the same crime. Neither would it make any difference, as very ingeniously suggested from the bar, that the person of the advocate was changed by death, or otherwise; for in every such business, his majesty's advocate acts officially, and there can be no doubt that the successor in office, would be bound by what his predecessor did. This rule stands upon the principles of plain good sense, justice, and utility; and has been sanctioned by immemorial practice with us. I do not profess to have the same knowledge of the law or practice of England; but I desire to be informed by those who do know it, how the matter is understood there, and in trials such as the present: or, at least, I desire to know explicitly from his majesty's advocate, whether this witness Mr. Aitcheson, or any other witness who may be adduced by him in this trial, does, or does not remain exposed to be tried by him for the same crime. If I receive an answer in the affirmative, I shall think it my duty to inform the witness, when a question is put to him, tending to criminate himself, that he is at liberty to decline answering it. But if I am assured that the witness runs no risk of being prosecuted himself, being virtually or expressly liberated from the charge, so far as he himself may be concerned, in consequence of his being called as a witness, and speaking out the truth in this trial, it will be my duty to tell



him, that he is bound to speak out the whole truth, and that he is in safety so to do.

*Lord Advocate.*—The present witness, Aitchison, being a Scotsman, and residing within the county of Edinburgh, can only be tried in this county, and by a jury of this county; as public prosecutor for Scotland, I explicitly declare in this court, that it is not my intention to, and I never will, bring Aitchison to trial, for any accession to the crime of treason charged against this prisoner, so far as the witness may have been accessory to it, previous to this trial.

*Lord Chief Baron.*—I served a good many years as prosecutor in this country, and I always understood, when I brought a *socius criminis*, as a witness, that my hands were tied up from the prosecution of him for any thing spoken at that bar. But if he would not speak out, I thought myself at liberty to prosecute him for any thing he did not speak out; a person being brought to the bar, and not speaking, should that protect him from trial for any offence, when he is only protected for what he shall speak upon that trial?

*Lord President.*—I am of the same opinion; if he refuses to speak, he is not a witness; he may be put back to his former situation.

*Lord Advocate.*—What the honourable judge has stated is perfectly right, and the law.

*Mr. Anstruther.*—I believe that is correctly the practice in England; I know of no instance where a judge has tried a person who has come forward voluntarily, and given evidence: there have been cases of this sort, where a person who is called as a witness, refused to answer, and has been tried; but where a witness has told the truth, I believe there is no instance of his having been tried; although certainly it does not amount to a pardon, if such persons set fairly, and disclose the whole truth, although they are not entitled of right to a pardon, the practice is, to stop the prosecution against them, and if it were a capital offence, the court of King's bench would bail, in order that the person might apply to the Crown.

*Lord Eekgrove.*—I think it fit to say a few words on this subject, as being the senior judge (now present) of the court of judicature, in which court I have sat nine years, and had before attended it ever since I came to the bar. I never doubted that the law of Scotland now stands as it has been explained, both by your lordship, and the lord chief baron. In this country, and I believe in every country which has a regular constitution and government, *socii criminis* are admissible witnesses in trials for crimes; and, indeed, in many cases, justice could not be done, nor the greatest criminals convicted, without the aid of such evidence; accordingly very few cases have been tried in my time, of a complicated nature, in which many persons have been concerned, where *socii criminis* were not examined;—but I never knew an attempt made by the prosecutor, to bring afterwards to trial for the same crime, any person who had been examined

as a witness upon that crime, to which he had been accessory, and who had not refused to give evidence, but had given evidence. I had conceived a notion in my own mind, that, if such an attempt should be made, the judges, who are to determine upon the law of the land as it strikes them, would not suffer a person so circumstanced, to be subjected to a trial, and consequently, that it is not optional in the public prosecutor to bring him to trial or not, for that the court would interfere, and prevent such trial proceeding, although that case has not yet occurred. Here the public prosecutor has thought fit to bring by *subpoena* to give evidence, a person, who, in the language of England, is an associate in the crime; and if that person should say nothing after he is sworn, it would not prevent him from being tried; but his giving evidence is the thing that must secure him. I did not, however, conceive that the question now put to Mr. Aitchison, could have led to the discussion of this point, because he formerly gave evidence in a case that was tried upon a charge for sedition, respecting what is called the British Convention, in consequence of having been then told, that his giving evidence was to secure him from being tried for any crime, whether under the name of treason or sedition arising out of his having been a member of the British Convention. I therefore think there is no place for the objection in his case; and, with respect to any other witnesses who may have been accomplices, I am of the same opinion with your lordships; it is not competent for the prisoner's counsel to object, although the witness himself may decline to answer to questions, tending to criminate himself; but if he chooses to answer, and gives evidence, I conceive he will be secure against any future prosecution.

*Lord Swinton.*—If an accomplice could not be produced as a witness, it would be impossible to discover crimes. When such a person is brought to be examined as a witness, it is not the right of the prisoner to object to his admissibility upon that ground; it is the right only of the witness himself to object; and if he does object, then the duty of the court is, to tell him he is not bound to answer any thing that may criminate himself, and if he is silent as a witness, he certainly subjects himself to be brought, though not in the character of a witness, yet in the character of a prisoner, to the bar. If, without objecting, he shall give his evidence, it is the fixed practice of every court of law of which I have had occasion to hear or read, that he cannot be brought to trial upon account of any thing he says; it is a protection to him that he cannot be brought to trial upon that account; but I see no business the court or any body else has, to suggest to a witness that he is not to answer any thing; it is giving him a hint not to do his duty to his country, and to tell the truth,—so I concur in the opinion given by the whole Court.



Lord *Dunsinnan*.—I concur with the lord president and the rest of the Court, that the prisoner and the counsel have no right to suggest to the witness that he is not bound to answer.

Lord *Abercrombie* concurred in the same opinion.

Mr. *Clerk*.—My lords, I see the question I mean to put to Mr. Aitcheson will come more properly afterwards.

Mr. *Anstruther* (to Mr. Aitcheson).—Do you know George Ross?—Yes.

Was he your assistant?—He assisted Mr. Skirving along with me.

See if you know his hand-writing?—I think that is his hand-writing.

Lord *Advocate*.—The jury will attend; we have proved some papers which I mentioned, and the clerk may now read them.

Mr. *Anstruther* (to Aitcheson).—The motions that were made in that convention were handed over to you, were they not?—Generally while I was there.

Tell us whether that is one?—It is.

[Letters produced and read.\*]

Clerk of *Arraignment*.—This is a letter signed Thomas Hardy, secretary, No. 9, Piccadilly,

"\* In cases," says Mr. Burnett (ch. 18. p. 466) "of conspiracies, or illegal combinations, it is often necessary to prove the general conspiracy, and its nature and object, by producing the minutes or resolutions of the association; and this is admissible evidence against the party accused of being one of that conspiracy, though his name do not appear on these minutes or resolutions. Nay, in such cases, evidence of the proceedings and resolutions of other associations connected with them, and implicated in the same pursuit, and even of the correspondence, writings, and actings of individuals connected with those other associations, are admitted to show what were the general views and objects of the conspiracy in which the prisoner has been engaged, the effect of these circumstances upon the case of the prisoner being left to the jury. In the trial of Downie and Watt, for high treason, at Edinburgh, in September, 1794, the minutes and proceedings of the British Convention, and the papers found in the possession of Skirving and Margarot, members of that association, were given in evidence against the prisoners, while, in the various prosecutions for high treason in England, in the same year of Hardy, Tooke, and others, the proceedings and minutes of the Association of Sheffield, and of the British Convention at Edinburgh, were admitted as evidence of the acts of the Society in London, and those of the Constitutional Society were admitted against the Corresponding Society, they being all implicated in the same transaction.

"As to Letters of Correspondence, the general rule is, that those written by persons different from the prisoner, and addressed to

and is dated London, 17th May, 1793, and directed to Mr. William Skirving, secretary of the society of the Friends of the People, Edinburgh.

"Sir;—The London Corresponding Society eagerly seize the opportunity of Mr. Crquhart going back to Edinburgh, to request of your society a renewal of correspondence, and a more intimate co-operation in that which both societies alike seek, viz. a reform in the parliamentary representation. We are very sensible that no society can, by itself, bring about that desirable end; let us therefore unite as much as possible, not only with each other, but with every other society throughout the nation; our petitions, you will have learned, have been all of them unsuccessful; our attention must now therefore be turned to some more effectual means; from your society we would willingly learn them, and you, on your part, may depend upon our adopting the firmest measures, provided they are constitutional, and we hope the country will not be behind hand with us.

"This war has already opened the eyes of many; and, should it continue much longer, there is no answering for its effects on the minds of the people.

third parties, and not found in the prisoner's possession, or letters addressed to the prisoner himself, though found in his custody, are not admissible against him. But in cases of combination, general concert, or conspiracy, such letters are admissible evidence to the effect of establishing the general concert or conspiracy, if written by members of, or connected with it, to other members, whether the prisoner or third parties; and whether found in the possession of the prisoner or of third persons; and, in certain cases, even though these letters have not reached the persons to whom they were addressed, if they have gone out of the possession of the person who wrote them. In Skirving's case, January, 1794, a letter addressed to him from Palmer (who had been previously convicted of sedition), and found in his possession, was received in evidence; and, in the trial of Downie and Watt, for high treason (at Edinburgh, September, 1794), letters from Hardy, of London, to Margarot, Skirving, and others, and from them to Hardy, were without objection, produced in evidence. In the same way, in Hardy's trial, in England, November, 1794, a letter from a member of the association to which Hardy belonged, addressed to Margarot, then at Edinburgh, but which letter had been intercepted, was received in evidence of the general conspiracy.

"Letters or other papers, written by the prisoner, in cases of concert or conspiracy, and bearing reference to what is going on, though not delivered or published by him, are admissible against him as evidence; and still more if they have passed from his possession by any act of his with a view to their being delivered or published."



"Our society has met with much persecution, nevertheless we go on increasing in numbers, and political knowledge. Wishing you and your cause all success, I remain, most cordially, sir, your friend and fellow labourer,

"THOMAS HARDY, Secretary."

"To the Secretary of the society of the Friends of the People, Edinburgh."

*Clerk of Arraignment.*—This letter is directed to Mr. Hardy; it is dated Edinburgh, 25th May, 1793.

"Mr. Hardy:—Sir; Mr. Urquhart did me the pleasure to call on Thursday afternoon, and delivered your letter of the 17th current; I am much pleased with the contents of it, and shall lay it before the first meeting of our societies here, which however does not take place till Monday se'nnight. I would have acknowledged the receipt of your favour by yesterday's post, but was too much employed in removing our household to another lodging, to attend to any thing else.

"If either you in England, or we in Scotland, should attempt separately the reform which we, I trust, seek to obtain, we should be so doing only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking. If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set, without affecting the vitals of the system, adverse to reform. These might be easily accomplished; but to cut up deep and wide rooted prejudices, to give effectual energy to the dictates of truth, in favour of public virtue, and national prosperity, in opposition to self, and all its interested habits, and to withstand and over-awe the final efforts of the power of darkness, is the work of the whole, and not of a part; a work to which mankind, till this awful period, were ever adequate, because never till now disposed to fraternise, not merely, or only I trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence.

"I know no greater service that I can do to my country, than to promote the union you so wisely desire; and I am happy to assure you, that I have hitherto discovered no sentiment in our association, adverse to the most intimate and brotherly union with the associations in England.

"I think the minds of all must, in the nature of things, be now turned to more effectual means of reform. Not one person was convinced of the necessity of it, by the most convincing arguments of reason, together with the most unequivocal expressions of universal desire. What then is to be hoped or from repetition? I am only afraid that the blow in England against reform, was so contracted, that in returning it may break. You will willingly learn, you say, from us: I

own that we ought to be forward in this; we have at once in great wisdom perfected our plan of organization, and if we were in the same independent state of mind as the people of England, we should be able to take the lead. The associations with you are no more I fear,—excuse my freedom,—than an aristocracy for the good of the people. They are indeed moderate, firm, and virtuous, and better cannot be; but we are the people themselves, and we are the first to show, that the people can both judge and resolve, if undirected by faction, with both wisdom and moderation.

"I have not a higher wish in the present exertions for reform, than to see the people universally and regularly associated: because I am persuaded, that the present disastrous engagements will issue in ruin, and the people then must provide for themselves; and it would be unhappy, when we should be ready to act with unanimity, to be occupied about organization; without which, however, anarchy must ensue: we will not need but to be prepared for the event, to 'stand and see' the salvation of the Lord.' Let us therefore take the hint given us by our opposers: let us begin in earnest, to make up our minds relative to the extent of Reform which we ought to seek; be prepared to justify it, and to controvert objections; let us model the whole in the public mind, let us provide every stake and stay of the tabernacle, which we would erect; so that, when the tabernacles of oppression, in the palaces of ambition, are broken down, under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it!

"How hurtful to the feelings of a reflecting mind, to look back to the wretched state in which the Roman monarchy, enfeebled and broken by its own corruptions, left the nations which it had subjected, like sheep without a shepherd. They soon became a prey to every invader, because there was none to gather or unite them; had they, foreseeing the evil, associated for mutual defence, no robber would have been able to enslave them; they would have given laws to all parties, as well as to themselves; all separate colonies and nations would have sought their alliance; but not having virtue to associate and heal the divisions, and root out the selfish spirit which ambition-fostering governments procure to their subjects, they fell under oppressions, from under whose iron sceptre they have never yet been able to deliver themselves.

"We may suppose an event which we deprecate, nay should we not be prepared for every possible issue of the present unprecedented divisions of mankind, we have a right to be apprehensive of the abilities of our managers, who are so afraid to depart from precedent, that, like men of detail, they may be



Then it goes on in the same hand-writing.—

"Citizen Gerrald, in an energetic, and animated address, expressed his happiness at the motion passed, and exposed the act of the Irish parliament, called a convention bill.

"And citizen Brown followed him in a manly speech, and proved the influence of the executive government over the parliament.

"Citizen Margarot read and proposed the following motion; viz. that a secret committee of three and the secretary, be appointed, to determine the place where such Convention of Emergency shall meet: that such place shall remain a secret with them, and with the secretary of this convention; and that each delegate shall, at the breaking up of the present session, be intrusted with a sealed letter, containing the name of the place of meeting. This letter shall be delivered unopened, to his constituents, the receipt of which shall be acknowledged by a letter to the secretary, preserved in the same state, until the period shall arrive, at which it shall be deemed necessary for the delegate to set off. This motion was seconded by citizen Moffat, and the same was passed unanimously.

"The following citizens were nominated with the secretary, a secret committee on this business; viz. Margarot, Jo. Clerk, and Browne, and they were requested to devise the best possible means of conveying this intimation to those societies whose views were the same with ours, but may not have delegates at this convention."

*Clerk of Arraignment.*—This is a paper indorsed, Mr. Sinclair's Amendment of Mr. Callendar's Motion.

"That the convention, considering the calamitous consequences of any act of the legislature which may tend to deprive the whole, or any part of the people of their undoubted right to meet, either by themselves, or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive of our known and acknowledged constitutional liberties, do hereby declare, before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act, which shall militate against the constitution of our country, and shall continue to assemble, and consider of the best means by which we can accomplish a real representation of the people, and annual election until compelled to desist by superior force.

"And we further resolve, that the first notice given for the introduction of a Convention bill, or any bill of a similar tendency to that passed in Ireland since the last session of their parliament; the suspension of the Habeas Corpus act, or the act for preventing wrongous imprisonment in North Britain, and against undue delays in trial, which will render all the laws for the protection of our lives and our liberties nugatory, and as some have

avowed their intention of introducing a motion for the repeal of one of them, or in case of an invasion, or the admission of any foreign troops whatsoever into Great Britain, or Ireland,—all, or any of these, shall be a signal to the several delegates, to repair to such place as the convention shall appoint; and seven members shall have power to declare the convention permanent.

"Resolved, that the delegates to any convention meeting under any of these calamitous circumstances, shall immediately repair to the place of sitting, and there continue until the number be twenty-one, and then proceed to business.

"The convention doth therefore resolve, that each delegate, immediately on his return home, do convene his constituents, and explain to them the necessity of electing a delegate, or delegates, and of establishing a fund without delay against any of these emergencies for his or their expenses, and that they do instruct the said delegate, or delegates, to hold themselves ready to depart, at an hour's warning."

Paper of the 11th day's sitting read, dated 30th November, 1793.

"A motion of David Downie, to fine those members who did not attend their sections.

"The order of the day was called for.

"A motion for drawing out a scroll of a petition to parliament, which being read, the order of the day was moved upon it."

Paper of the 12th sitting read, dated, "Monday, 2d December, 1793, first year British Convention.

"Citizen John Clark, mason, in the chair, and citizens Downie and Romanes, assistants at the table.

"Read the minutes of the last sitting.

"Upon its being moved, that citizen Smith's motion for petitioning parliament be discussed immediately, it was agreed, that citizen Smith should withdraw it, and present another.

*Clerk of Arraignment.*—This is the hand-writing of Aitcheson.

"Citizens Alexander Scott, and A. Callendar moved, that the British Convention take under consideration a resolution passed at the last meeting of the Scots Convention to petition the Commons House of parliament for a parliamentary reform.

Citizens James Smith, and Peter Wood, moved, that this Convention take under consideration, whether, after the contemptible manner in which the late petitions for parliamentary reform were treated, they shall again petition for Reform, or at what period they should recommend the same to their constituents.

*Lord Advocate.*—Now read the copy of the resolutions that Taylor proved.

*Clerk of Arraignment.*—These are the general resolutions made at the general meeting of the London Corresponding Society, held at the Globe tavern, Fleet Street, on Monday 20th



January, 1794, citizen John Martin in the chair. The following address to the people of Great Britain and Ireland, was read and agreed to:

"Citizens,—We find the nation involved in a war, by which, in the course of one campaign, immense numbers of our countrymen have been slaughtered, a vast expense has been incurred: our trade, commerce, and manufactures are almost destroyed, and many of our manufacturers and artists are ruined, and their families starving.

"To add to our affliction, we have reason to expect, that other taxes will soon be added to the intolerable load of imposts and impositions, with which we are already overwhelmed, for the purpose of defraying the expenses which have been incurred in a fruitless crusade, to re-establish the odious despotism of France.

"When we contemplate the principles of this war, we confess ourselves to be unable to approve of it, as a measure either of justice or discretion; and, if we are to form our calculation of the result, from what has already passed, we can only look forward to defeat, and the eternal disgrace of the British name.

"While we are thus engaged in an expensive and ruinous foreign war, our state at home is not less deplorable.

"We are every day told by those persons who are interested in supporting the corruption list, and an innumerable host of sinecure placemen, that the constitution of England is the perfection of human wisdom; that our laws (we should rather say their laws) are the perfection of justice, and that their administration of those laws is so impartial, and so ready, as to afford an equal remedy both to the rich, and to the poor, by means of which we are said to be placed in a state of absolute freedom; and that our rights, and liberties, are so well secured to us, as to render all invasion of them impossible.

"When we ask how we enjoy these transcendent privileges we are referred to Magna Charta, and the Bill of Rights; and the glorious Revolution, in the year 1688, is held out to us as the bulwark of British liberty.

"Citizens,

"We have referred to Magna Charta to the Bill of Rights, and the Revolution, and we certainly do find, that our ancestors did establish wise and wholesome laws, but we as certainly find, that of the venerable constitution of our ancestors, hardly a vestige remains.

"The only chapters of the great charter which are now in legal existence, are the 14th and 29th.

"The important provision of the 14th chapter runs thus:

"A freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great fault, after the greatness thereof, saving to him his contenment; and a merchant, likewise, saving to him his merchandise; and any other's villain than ours,

shall be likewise amerced, saving to him his wainage; and none of the said amerciements shall be assessed, but by the oath of honest and lawful men of the vicinage.

"But by the usurped power of the judges in assessing fines (and what fines!) in the cases of misdemeanor, this glorious right of the subject, of having these fines assessed by the jury, (the only possible protection from slavery, and the vilest oppression) is unjustly, and infamously ravished from us."

"The provision of the 29th chap. runs thus:

"No freeman shall be taken or imprisoned or be disseised of his freehold or liberties, or free customs, or be out-lawed, or exiled, or any otherwise destroyed; nor we will not pass upon him, nor condemn him, but by the lawful judgment of his peers, or by the law of the land; we will sell to no man, we will not deny or defer to any man, either justice or right.

"The various methods now in constant practice, by which the benefits of this provision are totally defeated, and destroyed, might induce us to suppose that the great charter has been repealed, if we did not assuredly know it is the fundamental basis of our constitution, which even the real representatives of the people (much less the miserable nominees of Helstone and old Sarum) have not the right, nor (as we trust it will be found by experience) the power to repeal; yet what do we find in practice? unconstitutional and illegal informations, *ex-officio*; that is, the arbitrary will of the king's attorney general, usurping the office of the accusing jury, and the interested oath of a vile common informer, with the judgment of as vile a common trading or pensioned justice, substituted in the room of our birth-right, and impartial trial by our country.

"Add to this, that the exorbitant expense of judicial proceedings, the novel practice of arbitrarily and repeatedly annulling the verdicts of juries, and the dilatory practice of the courts, most openly and shamefully contradict the clause which forbids the denial, the delay, and the sale of justice.

"A man accused of felony (for which, by the common law of England, his life and goods are forfeited) may be bailed, on finding two securities for 40*l.* each, but upon a charge of misdemeanor, by words only, bail to the amount of 1,000*l.* has been demanded.

"Upon conviction also for such misdemeanor, enormous fines, long and cruel imprisonments, unknown to our ancient laws, and unsanctioned by any new statutes, have of late (and but of late) been too frequently, and too oppressively inflicted, and all this, although by this Bill of Rights it is declared that excessive bail shall not be demanded, nor cruel and unusual punishments inflicted.

"If we look to Ireland, we find that acknowledged privilege of the people, to meet for the support and protection of their rights



and liberties, is attempted by terror to be taken away, by a late infamous act of parliament, whilst titles of honour—no, but of dishonour are lavished, and new sources of corruption opened, to gratify the greedy prostitution of those who are the instruments of this oppression.

"In Scotland, the wicked hand of power has been impudently exerted without even the wretched formality of an act of parliament. Magistrates have forcibly intruded into the peaceful and lawful meetings of freemen, and by force (not only without law but against law) have, under colour of magisterial office, interrupted their deliberations, and prevented their association.

"The wisdom and good conduct of the British Convention at Edinburgh, has been such as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized, made use of as evidence against them, and many virtuous and meritorious individuals have been, as cruelly as unjustly, for their virtuous actions, disgraced and destroyed by infamous and illegal sentences of transportation, and these unjust and wicked judgments have been executed with a rancour and malignity never before known in this land. Our respectable and beloved fellow citizens have been cast, fettered, into dungeons, amongst felons in the hulks, to which they were not sentenced.

"Citizens;—We all approve the sentiments, and are daily repeating the words, for which these our respectable and valuable brethren are thus unjustly and inhumanly suffering. We too associate in order to obtain a fair, free, and full representation of the people, in a house of real national representatives: are we also willing to be treated as felons, for claiming this our important right, which we are determined never to forego but with our lives, and which none but thieves and traitors can wish to withhold from us? Consider, it is one and the same corrupt and corrupting influence, which at this time domineers in Ireland, Scotland, and England. Can you believe that those who send virtuous Irishmen and Scotchmen, fettered with felons, to Botany Bay, do not meditate, and will not attempt to seize the first moment to send us after them? Or, if we had not just cause to apprehend the same inhuman treatment, if, instead of the most imminent danger, we were in perfect safety from it, should we not disdain to enjoy any liberty or privilege whatever, in which our honest Irish and Scotch brethren did not equally, and as fully participate with us? Their cause

and ours is the same; and it is both our interest, to stand or fall together. parliament and the Scotch judges, by the same English influence, have directly to the point. There is no beyond that which they have at issue, we must now choose liberty or slavery for ourselves

and our posterity; will you wait till barracks are erected in every village, and till subsidized Hessians and Hanoverians are upon us?

"You may ask, perhaps, by what means shall we seek redress?

"We answer, that men in a state of civilized society are bound to seek redress of their grievances from the laws, as long as any redress can be obtained by the laws; but our common master whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles; we must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors.

"There is no redress for a nation, circumstanced as we are, but in a fair, free, and full representation of the people."

"Resolved,—That during the ensuing session of parliament, the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament, and of the administration of the government of this country; and that, upon the first introduction of any bill or motion inimical to the liberties of the people, such as, for landing foreign troops in Great Britain, or Ireland, for suspending the Habeas Corpus act; for proclaiming martial law; or for preventing the people from meeting in societies for constitutional information, or any other innovation of a similar nature; that on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies, affiliated and corresponding with this society, forthwith to call a general convention of the people, to be held at such a place, and in such a manner as shall be specified in the summons, for the purpose of taking such measures into their consideration.

"Resolved,—That the preceding address and resolution be signed by the chairman, and printed and published.

"J. MARTIN, chairman.

"T. HARDY, secretary."

"At a general meeting of the London Corresponding Society, held on the green at Chalk Farm, on Monday the 14th of April, 1794, J. Lovett in the chair.

[The following letters were read.]

"To the chairman of the society of the Friends of the People."

"Sir;—At a crisis so important as the present, there needs no apology, on the part of the London Corresponding Society, for addressing itself to all other associated societies who have in view the same object as themselves.

"To the society of the Friends of the People arguments are not wanting to show the importance and absolute necessity of a full and fair representation of the people of Great Britain. They have investigated the subject



for themselves; they have exposed to the world a series of plain and indisputable facts, which must excite in the mind of every man, well disposed to his country, apprehensions of alarm for the security of the few remaining vestiges of liberty, from which as Britons we derive consolation.

"Deeply impressed with considerations of this nature, the London Corresponding Society earnestly solicits, at this time, the concurrence and assistance of the society of the Friends of the People, in assembling as speedily as the nature of the business will admit, a convention of the Friends of Freedom, for the purpose of obtaining, in a legal and constitutional method, a full and effectual representation.

"Our request is not made from the impressions of the moment, but after the maturest deliberation on the value and importance of the object for which we are contending, and of the difficulties we may expect from those whose present interests render them hostile to the welfare of their country.

"The opposition of such persons is no small argument for the goodness of our cause; and their late conduct, when compared with their former professions, exhibits a depravity unparalleled, we trust, in the page of history.

"Under the auspices of apostate reformers, we have lately beheld serious and alarming encroachments on the liberties of the people.

"We have seen, with indignation and horror, men, legally and peaceably assembled, dispersed by unconstitutional powers, and their papers seized.

"We have seen some of our most virtuous brethren, whose only crime has been an imitation of Mr. Pitt, and his associates, sentenced to 14 years transportation, without the sanction of law, or even of precedent, of which number one was held up in the British parliament, as convicted and condemned, before he was even put upon his trial.

"The insidious attempts also to introduce foreign troops into this country, without the consent of parliament, and the intended bill to embody foreigners into his majesty's service, are measures sufficiently calculated to awaken our fears for the existence even of the name of liberty; nor can we overlook that part of the present system of corruption, which maintains, out of the public plunder, a train of spies, more dangerous to society than so many assassins, whose avowed business is, to destroy the friends of the country, one by one.

"These are grievances which demand immediate redress; and when added to those evils which are necessarily connected with every partial representation of the people, call for the strenuous exertions of every lover of his country.

"But we are told that the present is not the time for reform, and that innovation may produce disturbance. Are those persons to judge of the proper time to make a reform,

who exist only by corruption? Are the people of Britain to endure every thing without repining, without ardently seeking a radical reform, because disturbances may happen? Have the enemies to reform told us whence these disturbances are to originate? Has a single overt act been committed by the friends to freedom? Have not all the riots, all the public disturbances, all the seditious assemblies, been excited by the enemies to reform?—And do they mean to tell us, that they will still find other instruments for their wicked designs,—that they have yet those who will act over again the outrages that have been perpetrated in some parts of Britain, and attempted in others?

"If such is the determination of these persons, hostile to a fair representation, let them look to the consequences: but let them recollect, that it has happened, and may happen again, that those who kindled the flames, have perished by them.

"The Friends to Reform, are friends to peace; their principles can be promoted only by peaceable means; they know of no other method of obtaining the object they desire. But, they will not be alarmed by the threats of venal apostates; they will not draw back, because they have seen some of their best friends doomed to exile. They will pursue the course in which they have begun, and turn neither to the right nor to the left.

"Convinced, as the London Corresponding Society is, that as there is no power which ought, so there is no power which can finally withstand the just and steady demands of a people resolved to be free; they will, therefore, look with confidence to the determination, and, they hope, to the co-operation of the society of the Friends of the People, in the attainment of an object which involves the dearest interests of society.

"Convinced, also, that their intentions are of the purest kind, they will never stoop to answer the calumnies of their enemies; but will, at all times, and in all circumstances, endeavour, by firmness and perseverance, to deserve the countenance and approbation of the best friends of their country, the friends of a fair representation of the people of Great Britain.—I am, Sir,—for the London Corresponding Society,

"April 4. 1794. THOMAS HARDY, sec."

"Committee Rooms, Frith Street,

"April 11th 1794.

"Sir;—Your letter of the 4th instant, addressed to Mr. Sheridan, Chairman of the Friends of the People, was laid before the society, at their meeting on Saturday last; and they instructed their committee to thank the London Corresponding Society for their communication, and to express the alarm they feel in common with every friend of liberty, at the late extraordinary proceedings of government, so ably detailed, and so justly reprobated by your society.

E



"They assure you, that all the Friends of Reform, may look with confidence to the determination and co-operation of this society, in every peaceable and constitutional measure, which shall appear to them calculated to promote the object of their institution; but they do not think that which is recommended in your letter, is likely to serve its professed purpose. They fear it will furnish the enemies of reform with the means of calumniating its advocates; and so far from forwarding the cause, will deter many from countenancing that which they approve: For these reasons, the Friends of the People must decline to send delegates to the convention proposed by the London Corresponding Society: At the same time, they renew their assurances of good will, and desire of preserving a proper understanding and cordiality among all the friends of parliamentary reform, notwithstanding any difference of opinion that may occur, as to the best method of accomplishing it. In name, and by order of the committee.

"W. BRETON, chairman.

"To Mr. T. Hardy, sec. to the London Corresponding Society."

"The following resolutions were then passed unanimously:

"Resolved unanimously,

1st, "That this society have beheld, with rising indignation, proportioned to the enormity of the evil, the late rapid advances of despotism in Britain; the invasion of public security; the contempt of popular opinion, and the violation of all those provisions of the constitution, intended to protect the people against the encroachments of power and prerogative.

2d, "That our abhorrence and detestation have been particularly called forth, by the late arbitrary and flagitious proceedings of the court of justiciary in Scotland, where all the doctrines and practices of the star-chamber, in the times of Charles 1st, have been revived and aggravated, and where sentences have been pronounced, in open violation of all law and justice, which must strike deep into the heart of every man the melancholy conviction, that Britons are no longer free.

3d, "That the whole proceedings of the late British convention of the people at Edinburgh, are such as claim our approbation and applause.

4th, "That the conduct of citizens Margaret and Gerald, in particular, by its strict conformity with our wishes and instructions, and the ability, fairness, and disinterested patriotism which it so eminently displayed, has inspired an enthusiasm of zeal and attachment, which no time can obliterate, and no prosecution remove; and that we will preserve their names engraven on our hearts, till we have an opportunity to redress their wrongs.

5th, "That any attempt to violate those yet remaining laws, which are intended for

the security of Englishmen, against the tyranny of courts and ministers, and the corruption of dependent judges, by vesting in such judges a legislative or arbitrary power (such as has lately been exercised by the court of justiciary in Scotland) ought to be considered as dissolving entirely the social compact between the English nation and the governors, and driving them to an immediate appeal to that incontrovertible maxim of eternal justice, that the safety of the people is the supreme, and, in case of necessity, the only law.

6th, "That the arming and disciplining in this country, either with or without the consent of parliament, any bands of emigrants and foreigners, driven from their own country for their known attachment to an infamous despotism, is an outrageous attempt to overawe and intimidate the free spirit of Britons; to subjugate them to an army of mercenary cut-throats, whose views and interests must of necessity be in direct opposition to those of the nation; and that no pretence whatever ought to induce the people to submit to so unconstitutional a measure.

7th, "That the unconstitutional project of raising money and troops by forced benevolences (and no benevolences collected upon requisition from the king or his ministers, can ever in reality be voluntary, and the equally unjustifiable measure of arming one part of the people against the other, brought Charles the First to the block, and drove James the Second and his posterity from the throne; and that consequently ministers, in advising such measures, ought to consider whether they are not guilty of high treason.

8th, "That this society have beheld with considerable pleasure, the consistent respect which the House of Lords displayed for their own constitutional rules and orders, on the fourth of the present month, upon the motion of earl Stanhope, concerning the interference of ministers in the internal government of France, and that it is the firm conviction of this society, that this circumstance, when properly detailed, will have a considerable effect in convincing the country at large, of the true dignity and utility of that branch of his majesty's parliament.

9th, "That the thanks of this meeting be given to earl Stanhope, for his manly and patriotic conduct, during the present session of parliament, a conduct which (unsupported as it has been in the senate, of which he is so truly honourable a member) has, together with the timely interference of certain spirited and patriotic associations, been nevertheless already productive of the salutary effect of chasing the Hessian and Hanoverian mercenaries from our coasts, who, but for these exertions, might have been marched ere this into the very heart of the country, together with others of their countrymen, to have peopled the barracks which every where insult the eyes of Britons.

10th, "That it is the firm conviction of this



society, that a steady perseverance in the same bold and energetic sentiments, which have lately been avowed by the friends of freedom, cannot fail of crowning with ultimate triumph the virtuous cause in which we are engaged; since, whatever may be the interested opinion of hereditary senators, or jacked majorities of pretended representatives, truth and liberty, in an age so enlightened as the present, must be invincible and omnipotent."

"This society having addressed Mr. Marriot, their delegate, an address to Joseph Gerrald was read as follows, and carried unanimously:—

"To Joseph Gerrald, a prisoner, sentenced by the high court of justiciary of Scotland, to transportation beyond the seas for 14 years.

"We behold in you, our beloved and respected friend and fellow-citizen, a martyr to the glorious cause of equal representation; and we cannot permit you to leave this degraded country, without expressing the infinite obligations the people at large, and we in particular owe to you, for your very spirited exertions in that cause upon every occasion; but upon none more conspicuously than during the sitting of the British Convention of the people at Edinburgh, and the consequent proceeding (we will not call it a trial) at the bar of the court of justiciary.

"We know not what most deserves our admiration, the splendid talents with which you are so eminently distinguished, the exalted virtues by which they have been directed, the perseverance and undaunted firmness which you so nobly displayed, in resisting the wrongs of your insulted and oppressed country, or your present manly and philosophical suffering, under an arbitrary, and, till of late, unprecedented sentence,—a sentence, one of the most vindictive and cruel that has been pronounced, since the days of that most infamous and ever-to-be-detested court of star-chamber, the enormous tyranny of which cost the first Charles his head.

"To you, and to your associates, we feel ourselves most deeply indebted. For us it is that you are suffering the sentence of transportation with felons, the vilest outcasts of society; for us it is, that you are condemned to the inhospitable shores of New Holland, where, however, we doubt not you will experience considerable alleviation, by the remembrance of that virtuous conduct for which it is imposed on you, and by the sincere regard and esteem of your fellow-citizens!

"The equal laws of this country have for ages past been the boast of its inhabitants; but whither are they now fled? We are animated by the same sentiments, are daily repeating the same words, and committing the same actions, for which you are thus infamously sentenced; and we will repeat and commit them, until we have obtained redress; yet we are unpunished; either, therefore, the

law is unjust towards you, in inflicting punishment on the exertions of virtue and talents, or it ought not to deprive us of our share in the glory of the martyrdom.

"We again therefore pledge ourselves to you, and to our country, never to cease demanding our rights from those who have usurped them, until, having obtained an equal representation of the people, we shall be enabled to hail you once more with triumph to your native country. We wish you health and happiness, and be assured, we never, never, shall forget your name, your virtues, nor your great example.

"The London Corresponding Society.

"T. HARDY, secretary.

"J. LOVETT, chairman.

April 14th, 1794."

"It was also unanimously resolved:

"That the committee of correspondence be directed to convey the approbation of this society, 1st, to Archibald Hamilton Rowan, prisoner in the Newgate of the city of Dublin, for his unshaken attachment to the people, and for his spirited assertion of their rights.

2. "To John Philpot Curran, for his admirable and energetic defence of A. H. Rowan,\* and the principles of liberty, as well as for his patriotic conduct in parliament.

3. "To the society of United Irishmen in Dublin, and to exhort them to persevere in their exertions to obtain justice for the people of Ireland.

4. "To Skirving, Palmer, and Muir, suffering the same iniquitous sentences, and in the same cause with our delegates.

5. "To John Clark, and Alexander Reid, for their so readily and disinterestedly giving bail for our delegates, instigated thereto solely by their attachment to liberty, uninfluenced by any personal consideration.

6. "To Adam Gillies, Malcolm Laing, and James Gibson, for their able assistance given to Joseph Gerrald, at the bar of the high court of justiciary at Edinburgh.

7. "To felicitate Thomas Walker † of Manchester, and the people at large, on the event of his, as well as several other late trials, and on the development of the infamy of a system of spies and informers.

8. "To Sir Joseph Mawbey, for his manly conduct at the late surreptitious meeting held at Epsom in Surrey.

"It was also unanimously resolved,

"That 200,000 copies of the proceedings and resolutions of this meeting be printed and published.

"J. LOVETT, chairman.

"T. HARDY, secretary.

"Resolved, That the thanks of this meeting be given to the chairman for his manly and impartial conduct this day.

"T. HARDY, secretary."

\* See it, *anté*, Vol. 22, p. 1066.

† See his trial, *anté*, Vol. 23, p. 1056.



*Lord Advocate.*—This is a printed letter, sworn to be found in Hardy's possession, signed T. Hardy, secretary to the Corresponding Society.

"Citizens;—The critical moment is arrived, and Britons must either assert with zeal and firmness their claims to liberty, or yield, without resistance, to the chains that ministerial usurpation is forging for them:—will you co-operate with us in the only peaceable measure that now presents itself, with any prospect of success?—we need not intimate to you that, notwithstanding the unparalleled audacity of a corrupt and over-bearing faction, which at present tramples on the rights and liberties of the people, our meetings cannot in England be interrupted, without the previous adoption of a convention bill;—a measure it is our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared, while it is yet in our power, so as to guide and direct the future operations of the Friends of Freedom. Rouse, then, to one exertion more, and let us show our consciousness of this important truth,—If we are to be beaten down with threats, prosecutions, and illegal sentences, we are unworthy, we are incapable of liberty; we must, however, be expeditious; Hessians and Austrians are already among us; and if we tamely submit, a cloud of these armed barbarians may shortly be poured in upon us; let us form then another British Convention. We have a central situation in our view, which we believe would be most convenient for the whole island, but which we forbear to mention (entreating your confidence in this particular), till we have the answer of the societies with which we are in correspondence; let us have your answer, then, by the 20th at farthest, earlier if possible, whether you approve of the measure, and how many delegates you can send, with the number also if possible of your societies.—We remain yours, in civic affection, the London Corresponding Society."

"T. HARDY, secretary.

"For the management of this business we have appointed a secret committee; you will judge how far it is necessary for you to do the same."

*George Ross sworn.*

*Lord Advocate.*—Mr. Ross you were in the Gazetteer office?—Yes.

Do you know of any society or club meeting in your house, in January, February, and March last, after the dispersion of the British Convention?—I believe there was a society of people met in my house.

Of what sort or description?—I have heard it called a Committee of Union, or something of that kind.

Who are the persons that appeared to you to compose that committee,—the persons who came there?—There was a Mr. Walt, a Mr. Stock, sometimes,

Who was Stock?—I believe he was a student. There was a Mr. Downie.

Was that the man at the bar?—Yes,—and Mr. Bonthron,—I do not know the exact number that met, they met several times.

Was there ever a larger number met than these four?—I believe there was a larger number; but, as I said before, if there were two committees, the smaller committee met with the larger, I suppose.

Then am I to understand there were two committees?—I cannot be certain of that, because I did not belong to any myself.

Did you ever receive any printed letters from a society calling themselves the London Corresponding Society?—Did you ever receive from the London Corresponding Society any written or printed letters?—I never did.

Did you ever receive from any person whatever, letters of that kind?—To the best of my recollection I received one from Mr. Stock.

That you mentioned before?—Yes.

Do you know the import or subject of it?—From the import of those letters, I saw the purpose was to send them to societies in the country. I accordingly did so.

Look at that,—is that one?—That is one of them.

Is it your hand writing?—I think it is.

Look at the address?—As far as I know that is one that I sent.

Do you see the post mark upon it?—I see threepence here, the price of postage.

Did you send any to Perth?—That is the one I sent to Perth.

Any other towns?—To four towns; Perth, Paisley, Strathaven, and another place.

*Lord Advocate.*—This is addressed to Mr. Walter Miller, Perth; the words are these in his hand: "show this to your friends, and send an answer to George Ross, Liberty-court, Edinburgh; nothing but ready money subscriptions received."

*Witness.*—The post mark is March 6th or 8th.

It was about that time you received them from Stock?—To the best of my knowledge I received them from Stock; I do not particularly remember what time.

Where did you receive them from him?—I suppose in my own house; I cannot be certain.

Do you remember what time?—I do not remember the time, but it was from him I received them.

*Mr. Cullen.*—I have no questions to ask this man, unless the prisoner has.

(The Prisoner said he had no question to ask).

*Witness* (to the lord Advocate).—Am I at liberty to go away after this?

*Lord Advocate.*—Not at present;—I do not mean to keep you a moment longer here than is absolutely necessary.

*William McCubbin sworn.*

*Mr. Austruther.*—What are you?—A writer sir,



Were you one of the Friends of the People?  
—Yes, I was.

Do you know any thing of a committee, called the Committee of Union?—I know very little about it—it existed some time before I was a member of it.

Were you a member of it?—Yes, I was; I was there once, or twice, I believe.

Upon what occasion were you elected?—The occasion was,—a young man of the name of Gunnell, who happened to be a member of it at the time of the disturbances at the Theatre, as he was bound over to keep the peace, he thought it improper for him to do that business, it was put upon me. I said I thought it would not suit my convenience, but I at last accepted it.

Upon this person being bound over to keep the peace, you at last accepted it?—Yes, sir.

What was that committee to do?—I never understood what it was to do, but I understood it to be a union of all the societies in Edinburgh.

What was it to do?—I understood it was for taking measures for calling another convention, to co-operate with the Committee of Collectors for forwarding the money.

Who were members?—There were a great many.

Do you remember any of them? Was the provost a member of it?—Yes, I believe he was.

You said, you understood it was for taking measures for calling another convention: what convention was it to be?—I understood similar to the last.

What do you mean by the last?—The British Convention.

You said something about the Committee of Collectors, what is that?—I understood the Committee of Collectors to be for the purpose of collecting money in the first place, to pay what debts were due, and, in the next place, to collect money for that purpose, and those suffering for peculiar opinions; and in the next place, to collect money to support the delegates in that new convention; that is what I understood.

Do you know where the convention was to meet?—No, I do not.

Was it to be in Scotland or England?—I suppose in England; I do not know.

Were not the delegates to do something else besides receiving money?—It was to gather sentiments; and I understand several persons differed in opinion about the reform; some wished for universal suffrage, and annual parliaments; others thought it a violent measure; and it was to consider about that subject, and how it could be obtained.

*Lord Advocate*.—Were you a collector?—Yes my lord, I was.

Now, were you, or the other collectors, to go round all the Friends of the People to collect their opinions, or was there a particular district assigned?—There was a particular district assigned to them, but it was not un-

derstood they were confined to it; it was according to the place where they lived.

Was it by dividing the districts?—It was to be the New Town, the south side of the town, the Lawn Market, and the Canongate.

To whom was the money to be paid?—I do not know, it was to be accounted for in the committee, and they were to appoint some persons.

Who were to appoint them?—The collectors; and I understood they were to be responsible for money paid.

Whom were they to pay it over to?—It was not mentioned.

Who was treasurer?—I understood Mr. Downie was treasurer.

Was he treasurer to the committee, or collectors?—He was treasurer to the whole.

Do you know a man they called John Fairley?—Yes.

Was he a collector?—Yes, he was.

Was he distinguished from the other collectors by any appointment?—I came in one night, and they were met, and I went out and left them; they wished me much to be in; when I came into the room, they told me they had been doing some business: that John Fairley had been appointed a convener; I was a little astonished; I said nothing, and they were to give in printed papers for them to collect money.

Why were you astonished?—I was a little astonished upon his being appointed a permanent convener.

Was he to be changed every week, or month?—I know nothing of that.

Why did you use the word permanent?—It was only that he was to convene us, and sit always.

Sit always,—for what?—As convener.

Were you at the British Convention the night it was dispersed?—Yes, I was.

Who dispersed it?—It was the lord provost.

What did the lord provost do?—He asked if this was the British Convention, and the president said it was.

Who was president?—I believe it was Samuel Paterson.

Tell us what the provost said?—The provost said, he could not allow any such meeting to be held, and he desired the president to leave the chair; he said he could not properly leave the chair, without the permission of the convention; but as he had got leave before that to leave the chair, he was just going, and he would go; and a call was for some other person to take the chair, and Mr. Brown, of Sheffield, took the chair.

*Lord Advocate*.—Recollect and tell Brown's situation; what did Brown say to the provost, or the provost to him?—Brown said, as he was appointed by the unanimous voice of the convention, he could not leave it without leave of the convention; the lord provost said, he must leave the chair; he had been deficient, he said, in his duty, or he would have dispersed them before. The lord pr-



vost said the proceedings were seditious or inflammatory; and Brown said, the publication of their proceedings tended to show that their meetings were of a constitutional nature, and they kept open doors to every person that chose to come; the provost said he must leave the chair; he said he would not do it, without superior force. Skirving observed, he could not leave the chair, and they would not allow themselves to disperse without force; it was agreed they should call in their force, and we should file off to the other side of the hall; but the constable came in, and the lord provost pulled Brown from the chair. Some person moved, as they had been dispersed there, they should go to the Canongate Mason Lodge.

Did you go there?—Yes.

What passed there?—A vote passed there, that we were permanent.

How long did you sit at the Canongate, after you voted that you were permanent?—Not long.

How came you to separate then?—We thought it unnecessary to do any thing more that night.

Did you join the Convention again after that?—No, it was many months after that.

Were you there the next night in the suburbs at a wright's shop there?—Yes, I was.

What happened there?—The sheriff came in and dispersed them.

In short, the same thing took place that night, as took place the day before?—Yes.

Was any declaration made there that you had voted yourselves permanent the night before, in the Canongate?—I cannot recollect.

Mr. Anstruther.—How long were you one of the collectors?—Eight days or a fortnight.

Where did you meet when Fairley was president?—At George Ross's.

Where did you meet the next meeting?—The next meeting was proposed in Philips's house.

Philips was a collector too, was not he?—Yes.

Did that meeting take place?—No.

Why did not that meeting take place?—It was on account of Mr. Watt and Mr. Downie being apprehended; it was thought the people would be afraid to come, on the seizure of some of the books of the society.

#### Cross-Examination.

Mr. Clerk.—You were a member of the Union Committee?—Yes.

You say Downie was treasurer of that committee?—I heard he was treasurer for the whole of the Friends of the People throughout Edinburgh; I could not say for that committee.

Do you know any thing about his appointment?—No, it is only report, I have only been told it by some persons.

You do not know it of your own knowledge?—No.

#### Trial of David Downie

You have heard it only?—Yes.

You were appointed collector?—Yes.

Explain the nature of collector, as you understood it?—As I understood it, that night there was a letter given in that Mr. had resigned his place, and desired some other person would take it, and it was put upon me, and with some hesitation I agreed to it.

What did you understand the duties of your office to be?—I mentioned that it was to pay the debts that were due by the convention.

You were to collect money for that purpose?—To collect money for that purpose.

Did you collect any money?—None.

Had you any access to know the sum of money collected for that purpose?—No, I know nothing about it.

Prisoner.—Did you hear any thing about a library?—I cannot recollect that, but I think I heard something about it mentioned.

Mr. Clerk.—About what?—About a library, about political publications.

#### William Binning sworn.

Mr. Anstruther.—You were a member of the Water of Leith Society, I believe, Mr. Binning?—Yes, sir.

Where did they meet at the Water of Leith?—I was not at the house, but sometimes I belonged to a Friendly Society.

How did the Water of Leith Society call themselves?—A Society of the Friends of the People.

Did they meet any time in December or January last?—I could not charge my memory, I dare say they might meet some time.

Did they meet soon after the British Convention?—No—about 3 weeks or a month.

You were secretary?—Yes, or clerk rather.

With whom did you correspond?—We did not correspond with any society, unless it was by sundry delegates, what they call a Committee of Union.

What was that Committee of Union?—It was for carrying on the business of reform.

How many delegates did you send to that meeting?—I think there were 2 or 3.

Who are they?—One M'Ewan.

What is M'Ewan's first name?—Arthur; Robert Orrock.

What is Orrock?—A Smith.

What is M'Ewan?—A weaver.

Who is the other?—William Ferguson.

What was the reason of your choosing these delegates?—To carry on the matter of Reform, by way of petition to parliament.

What was your reason for choosing them at first?—It was for corresponding.

Did it come into your own head, or did any body bid you?—No, we chose them so that we could correspond with a society to obtain a reform in parliament by petition.

That was the way of doing it, by petition?—Yes.

Who first proposed to appoint these dele-

gates?—Nobody in particular, we thought a reform was necessary.

Was there no letter came to you about it?—No.

Who proposed it in the committee first?—I did not remember.

Did you ever hear of such a thing as a collector? what was the collector to do?—He was to take the sense of the Friends of the People and if the people he spoke to thought proper to give any money in support of the cause, or defray the expenses of such as suffered in support of that cause, such as Skirving, to gather money.

Did you gather any money in your society?—Six shillings.

Nothing more?—About a penny a night.

Did you give any thing to M'Ewan?—About 15s.

What was he to do with it?—He was to give it to the delegates that were to be chosen to a convention some where I did not know.

You were to distribute it to Mrs. Skirving, or persons that stood in need of it?—Yes, sir.

Was it as he liked it, or a Committee of Union would like it?—It was the Committee of Union, I suppose, but we gave it to him to carry it there.

He was to carry it to the Committee of Union?—Yes.

And he was to pay it to the treasurer of the Committee of Union?—Yes.

Do you know who was the treasurer?—That was one of the name of Downie.

Do you know him?—Yes.

Did you hear what he was described to be, what his trade was?—A goldsmith, I think.

Now these collectors, when were they chosen first?—Some time in March, I fancy: I could not really charge my memory; but I believe it was some time in March, I am not certain as to the time.

Are you quite sure there was never any letter or message sent to you about choosing these delegates?—I am not certain, I am sure I cannot recollect.

Did you ever see any printed papers, called "Fundamental principles"?—I am not sure.

Did you ever see that paper?—It was "Fundamental principles."

Where did you see it?—It came to the society one night.

You saw such a paper in the society, but do not know where it came from?—No.

Look at that, and see if you know where that came from?—I think I saw this in Arthur M'Ewan's, I am not certain.

No Cross-Examination.

[This was a letter from the Committee of Ways and Means that he looked at, but it not being yet proved, it was not read.]

Arthur M'Ewan sworn.

Lord Advocate—Where do you live?—At the Water of Leith.

Were there any societies there?—Yes.

Were you a member of any society there?—Yes.

What was the title of that society?—It was called the society of the Friends of the People.

Did that society send any delegates to the British Convention?—Yes.

Were you a member yourself?—Yes.

Did that society continue to meet after the British Convention was dispersed?—Yes, it met after it was dispersed.

Was there after that time, any other committee chosen to which your society sent delegates?—Yes.

What was it styled?—It was styled, in the printed paper, the Committee of Union.

Were you a member of that committee?—Yes, the society appointed me to attend that committee as one.

Who were along with you?—I think Mr. Orrock and William Ferguson.

What is Orrock?—He is a blacksmith.

He lives at the Water of Leith with you?—At the Dean.

Did you ever attend meetings of the committee?—Yes.

Where did it meet?—At George Ross's.

At any other house?—Not the Committee of Union.

Was there any other committee, of which you were a member, chosen from that?—There was a sub-committee.

Who were members?—Mr. Watt, Mr. Burke, Mr. Downie, Mr. Aitcheson, Mr. Stock, Mr. Bonthron, and myself.

Seven in whole?—Seven.

Had that committee any other title than the sub-committee?—It had no name to my knowledge, but in the printed paper it was called the Committee of Ways and Means.

Be so good as to inform us what the chief object of it was?—A fortnight after I belonged to the committee, there was a letter read by a big man; he said he had received it from Mr. Skirving; the contents were, that the Friends of the People were in his debt, and he hoped they would pay it up, and do every thing they could for his family, as he was going to leave the country;—to assist to pay that debt, and assist Mr. Skirving, if he stood in need.

Were you there any other nights?—Yes, other nights; I found it was for other purposes, by a paper that Watt read.

Explain what purposes?—It appeared to me it would throw the country all into confusion, and spill the blood of our fellow creatures, from the paper he read: the contents run thus: that parties were to seize the lord justice Clerk, and the rest of the lords of the sessions, and the lord provost: and parties were to be stationed at the Luckenbooths, and the head of the West Bow, and parties were to make a fire at the excise office, to draw the military from the Castle; and, when the soldiers came by the top of the Bow towards the Luckenbooths, they were to inclose them, and par-



ties were to seize the banking houses in town, and appoint commissioners to go and demand the cash from them—that was the substance of the paper, as far as I can recollect.

Who were present at that meeting?—Stock, Watt, Downie, Bonthronne and I.

Was it a stated meeting—a usual meeting?—Yes.

What do you mean by parties? parties of whom?—I cannot say by whom it was to be.

Whom did you understand by the word parties?—I suppose Mr. Watt drew it up, and he supposed the country was to rise to do such a thing; I could not understand it any other way.

Were the people of this committee, if they approved of that paper, to have some command?—I knew not a man that was to do this.

Not a man?—Not one, man or men.

You mistake my question; you told us it was proposed that parties should be put at different places, the Luckenbooths and Bow, to secure the soldiers when the fire appeared at the excise office; who did you understand the parties to be?—I could understand it no other ways than the Friends of the People.

Now, what was done by that committee upon this plan being read by Watt?—I objected to the plan; I said I by no means would agree to any thing that broke the peace, or shed the blood of my countrymen; and Mr. Bonthronne seconded me, and said, “no, do not do no such thing.”

Did Downie say any thing?—Not that I remember.

Did Watt?—No.

Did Watt ever read any other paper relative to that subject, or show you any other paper?—He read another paper another night.

Was that a committee night?—Yes.

Who were present?—It runs in my head that Mr. Downie was present, but I cannot be positive.

Was it a committee night?—It was.

Was Stock present?—No.

Was Bonthronne?—No.

Aitcheson?—No.

Was Burke?—No.

*Lord Advocate.*—Then Downie must have been present?—I think he was present, but I cannot be certain of it.

Now, what was the import of that paper which, at the second meeting of the committee, Watt read to you?—The purport of that letter, as far as I can recollect, was this—it was a copy of a proclamation to all farmers and dealers in corn and meal, and hay, not to remove the same from their respective habitations, under pain of death.

Any thing else?—Also, for gentlemen of the country not to remove from their several habitations, above the distance of 3 miles, under pain of death;—there was likewise an address to his present majesty to dismiss his ministers, and put an end to the war, or else he must expect, or abide the consequences.

Did any body say any thing upon the subject of that paper?—I said it was not a paper agreeable to the plan of reform, and I hoped I should never see the day when such a thing should take place.

Do you recollect that Downie said any thing?—I am at a loss to know. I said before I do not know it is a fact that Downie was there.

*Mr. Anstruther.*—You collected some money at the Water of Leith society?—Yes, I got 15s. from the secretary.

Who was it?—Mr. Binning, he was secretary to the society of the Water of Leith.

Whom did you give it to?—To Mr. Downie.

Why did you give it to him?—I was informed he was appointed treasurer; for that reason I accounted to him.

Did you pay it to him as treasurer?—Yes, I did.

Do you know a lad of the name of Fairley?—Yes, I have seen him, I am not well acquainted with him.

Is that the Downie that was the treasurer? [pointing to the prisoner].

*Lord President.*—Is he the person that was present when the first paper was read?—Yes.

*Mr. Anstruther.*—Do you remember seeing Downie at George Ross's?—Yes.

Was that a committee night?—Yes.

Who was there?—Mr. Downie, Mr. Watt and me; I cannot remember whether any more were.

Where did Fairley come from when he came there?—He came from the west country.

Who sent him to the west country?—I do not know—I cannot say who sent him.

About what time was this?—I cannot positively remember; I think it might be towards the latter end of April.

*Baron Norton.*—Can you tell how long it was after this plan was read?—Some little time after—I cannot positively say.

*Mr. Anstruther.*—Did you see any body pay Fairley?—No, I did not,—I saw Fairley lay down 15s. upon the table, and he was ordered to take it up again.

Who ordered it?—Mr. Downie.

Why?—He laid down 15s. upon the table, and said he had it for a parcel of pamphlets, and he left the 15s. and Mr. Downie bid him take it up again.

Did he bid him take it to himself? what was he to take it up for? was it for his trouble?—I cannot say positively, but I took it to be for his trouble.

Was this at a meeting of the committee?—Indeed was it.

Did Fairley say any thing about Paisley?—Yes, he did.

What did he say?—He said it was in a state of great readiness.

What did he mean by that?—I do not know what his orders were, I could put no construction upon it.

You put some construction upon it in your

own mind?—I thought it still carrying on the cause.

Did you ever hear any body talk about arming?—No.

About the Friends of the People arming?—No.

Mr. *Solicitor General*.—Mr. M'Ewan, did you ever hear Watt mention any thing about a commission from Perth to procure arms?—No, I never heard it, but heard him say to Orrock, 4,000 were wanted.

Was Downie present when Watt said he had a commission from Perth?—I did not hear Watt say he had a commission, but Watt said he had 4,000 to send there.

Was Downie present?—No.

Mr. *Anstruther*.—Did you see any of these? [pointing to the pike heads upon the table.] I saw one at Mr. Watt's. I was going upon some private business.

Do you recollect when Mr. Watt was taken up?—I cannot positively say.

Did you ever see Mr. Downie after that?—Yes.

Where did you see him?—He called upon me at my own house.

Tell me what passed between you and Downie?—I had been before the sheriff, and Mr. Downie called up to ask if I had been examined; I said, yes; he desired to know what questions I was asked; I said very few—that was all. I only asked what was done with the money; the answer was, he gave part to Brown, and part to Martin Todd for printing.

Did he bid you tell that to any body?—No, he did not bid me tell any thing of the kind.

Did he bid you not tell it?—As far as I can recollect what he said was, if he was called upon, he would say he did not know me, and if I was called upon, I was to say I did not know him; I said, by no means, I would do no such thing.

Did he say any thing more?—I remember no farther conversation taking place.

See if you can recollect what he said about Brown and Martin Todd?—He said he had given money to Martin Todd, Smith, and Taylor and Brown, for printing of papers: I said that was not the meaning.

Did you know before that that Brown had got any money?—No, it was some days before that he had called upon this Robert Orrock, at the Dean, and the two went into my house together, and I happened to be at a society meeting that night; not thinking of any person there, I went in, and heard Brown say he was employed by Mr. Watt, and paid by Mr. Downie; I inquired no farther into the conversation, I was just out of the door.

Did you ever hear any thing about another convention?—No.

Now recollect yourself, whether you ever heard of any other convention that was to meet?—I do not remember any other convention that was to meet.

VOL. XXIV.

But of the Water of Leith Society?—No, sir.

Mr. *Solicitor General*.—Did you ever hear Downie say any thing of a letter he received, or Watt received from Perth?—All I remember was, Downie saying he had received a very spirited letter from Perth.

You entered into no farther explanation about it?—No.

Did Downie or Watt mention any thing more about it?—Downie read the letter that came from Perth.

What was the letter about?—It was about Mr. Miller in Perth.

What was it?—They had some meeting, and after the meeting he was carried before the magistrate and examined, whether he had made a practice to sell them to the Friends of the People; he said he would sell as many as he pleased.

Was it soon after this you heard Downie say he had received a very spirited letter from Perth?—I cannot positively say.

Mr. *Fletcher*.—You said Watt read a paper?—Yes.

Did Downie receive notice such a paper was to be read?—I got none, and never saw it after that night.

Does it consist with your knowledge any other members got it?—I cannot say.

You never had any conversation with Mr. Downie upon the subject?—Never.

*Jury*.—You said before, you had been informed Brown and Orrock were to be employed by Watt—what were they to do?—Brown and Orrock were employed by Watt.

What to do?—To make some pikes and things of that kind.

Mr. *Anstruther*.—When Watt read the proclamation, it was not at the same time he read the plan, I believe?—No.

Mr. *Fletcher*.—Who took the chief lead in the Committee of Ways and Means?—As far as I can recollect, I never saw a man put pen to paper there but Mr. Watt and Mr. Stoke.

Mr. *Clerk*.—Had you any conversation with Mr. Watt or Mr. Stoke about it afterwards?—No.

Did you never mention a syllable of it?—No, sir.

Mr. *Fletcher*.—Now, do you believe in your own mind, that Downie ever meant to carry into execution the project in Watt's paper?—He never said a word to such a purport, as far as I remember.

*Prisoner*.—[by Mr. Clerk] Whether after leaving the committee that night, when Watt read his paper to seize the Castle and judges and so on, the prisoner said any thing, in going homewards along with Bonthron?—I cannot remember as to that, but he said nothing at the time it was read.

It was after leaving the committee in going home with you and Bonthron?—I cannot say, I cannot give an answer to it.

Did you go home with him?—I am not certain.

The question is, whether you went home with him that night, and what conversation passed?—I cannot recollect.

*Jury.*—It does not appear whether Downie and Watt employed Orrock, or Watt only.

Whether Downie and Watt employed Orrock, or whether it was Watt only?—Watt only.

*Lord President.*—Did you say Downie paid him?—It was Brown I heard say he was employed by Watt, and paid by Downie.

That was by a resolution of the committee?—By no means, it must be a fabrication of his own, as far as I know.

*Mr. Clerk.*—Did he seem to have a serious wish this plan should be put in execution?—As to his wish I can say nothing about that; as far as I could recollect, he seemed to interline some part of the paper.

Did he ask the committee's opinion upon it?—No: I thought he had done, and I spoke those words, I did not approve of it, and Bonthron backed me. As soon as I thought it was done, I said I would not, by any means, do any thing to disturb the peace, or shed the blood of my countrymen; and Bonthron said, by no means.

This never came on again?—No.

It never was resumed again?—No.

At any time after it was read did you understand it an object the committee was pursuing?—No; I never understood it, for Mr. Bonthron opposed it negatively, and said he would agree to no such thing.

*Baron Norton.*—I thought you said that you supposed that Fairley, in what he had been doing in the west country, had been doing something relative to this plan?—I wished to give no opinion; if I was to give an opinion, I would look upon it in that light, but I know nothing of his reason for going there.

*Mr. Clerk.*—Then you only speak of your own suspicion?—I would not wish to give my opinion.

*Mr. Bonthron sworn.*

*Lord Advocate.*—Where did you commonly reside before you were taken into custody?—In the new town of Edinburgh.

Before Whitsuntide, where?—In Broughton.

Do you know of the British Convention being dispersed?—Yes, my lord.

Were you a member of any society at Broughton or the New Town?—At Broughton.

Did your society send delegates to that convention?—Yes.

After that convention was dispersed, did your society continue to meet at all?—I believe it did for some short time.

Do you know that it did?—Yes, my lord.

Was there any other committee or convention, to which your society sent delegates after that?—Yes, my lord.

What was the name of that meeting to which your society sent delegates?—The Committee of Union.

Where did that committee meet?—At George Ross's.

That is the Gazetteer-office?—Yes.

Do you know it to be the Gazetteer-office?

—It is George Ross's house; it was said to be the Gazetteer-office—the Gazetteer-office is a separate place from the house.

Where is it?—South Bridge.

Do you know a place called Liberty Court?

—I know of no such place.

Did you ever attend any of the meetings of that committee?—Yes.

You were a delegate from the Broughton Society?—Yes.

Do you know David Downie, a goldsmith in Edinburgh?—Yes.

Did you ever see that man in that committee; see if you can find him out now?—[The witness looks at the prisoner]. Yes, my lord,—he is there.

Did you understand him to be a member of that committee?—I understood every person present to be a member.

At what time did the committee meet occasionally?—I do not recollect the precise time.

Were they usually meeting about the time you were taken into custody?—I know nothing of it; I had left the meeting a month before I was taken into custody.

Did they continue to meet when you gave them up?—Yes.

What month was it you gave them up?—About the middle of April.

Was there any other committee you had occasion to know any thing about, besides this Committee of Union?—Yes, there was another.

Tell the jury what it was?—It was styled the sub-committee.

Of whom did that committee consist, and who chose it?—They were chosen by the Committee of Union.

Were the members of the sub-committee all the members of the Committee of Union?—Yes.

That is to say, the Sub-committee were chosen a principal committee?—Yes.

Tell the name of that Sub-committee, and who those individuals were?—They consisted of seven, my lord.

Name them, if you can?—Aitcheson, Burke, Stoke,—

What was Stoke?—do you know his profession, his business?—I heard he was a student.—M'Ewan, Watt, Downie, and myself.

That same Downie?—Yes, that same Downie.

Where did that Sub-committee meet?—In that same house.

Had you stated nights of meeting at that committee?—Yes, once a week.

Did you ever meet in Watt's house?—Yes.

Did you ever hear any other name given that Sub-committee, except Sub-committee?—I have heard of another name, but I did not know it; I understood it under that name.



What was that other name you heard of?—I read it in a printed paper called the Committee of Ways and Means.

And where did you see that paper that called it the Committee of Ways and Means?—I saw it in the sheriff's office: I was shown it.

Did you ever see that paper in manuscript, before you saw it there?—Yes, I saw part of it.

And where did you see it?—In that committee, of which I was a member.

The circular letter?—It is called the regulations.

Is that like the paper to which you are alluding?—Yes, beginning Fundamental Principles of the Society.

Did you ever see any other printed paper or manuscript?—Yes.

What paper was it? Do you remember the import or substance or tenor of it?—I do not recollect the substance, but if I see it, I know it.

See if you have seen that in the Sub-committee. Look at it?—Yes, sir.

Is that the paper you saw in manuscript?—Yes, part of it; it has perhaps undergone some corrections since it went to the press.

Was Downie in company when that paper was produced?—As to that I am not positive whether he was or not.

Did any of the members leave it before you left it?—Yes, three left it before me.

Three before you?—Yes.

Who were they?—Aitcheson, Stoke, and Burke or Burt.

Did the other three continue to attend?—Four, my lord, as I believe I was a week after.

After whom?—There were just three in it.

Who was the man that left it immediately before you?—Stoke, my lord.

Was there ever any money collected by that society?—Why, yes, we collected a few pence every evening, in order to defray the room expense.

Was there any money collected in the societies, and given to you in that committee, or to any of the members of it, to your knowledge?—I remember once, a very few pence that I carried to that committee.

From what society?—From the Broughton Society.

For what purpose was it carried?—To defray the expense in printing such papers as these.

Was no other purpose held out in your society, for which money was collected?—I do not recollect any other purpose, my lord. I remember there was an account owing to Mrs. Skirving, some demand she had; I suppose she would get some: I do not know she got any, but a demand was made, or proposed to be given in.

Did any body act as treasurer to the committee?—There was no treasurer chose.

Did any body act as treasurer to that committee to your knowledge?—Mr. Downie was

ordered to take up a few pence that was over the money due, and I suppose he took up any money that came to hand, but was not chosen treasurer.

Do you know any thing of collectors, or people of that sort?—I was entirely away from the committee before these collectors had any meeting at all.

Did you know they were appointed?—Yes, I have heard they were appointed.

Was it in a committee?—No.

Was it in your society that you heard it, or from any member of your society?—They were appointed I suppose by the societies.

You only suppose it—do you know it?—I only speak from my own knowledge.

Mr. Anstruther.—Do you speak from your own knowledge?—Yes, my lord.

Do you know what the duty of those collectors was, or the purpose for which they were appointed?—I know little or nothing at all about the business, because I left them.

Do you know a little about it; even a little—tell nothing but what you know?—I believe it was to see and collect a little money; to send a delegate to England, upon any emergency, if I recollect well.

A delegate to be sent to a convention, if any?—Yes.

There was no such convention before you left the committee?—No.

State to the jury, if you recollect, what was the reason of your leaving that committee?—I gave a statement of that the other day.

Mr. Anstruther.—Those gentlemen did not hear you.

Lord Advocate.—Tell us nothing but what is true.—I wish not to say any thing untrue.—I gave one reason for leaving it, which was my removing to another quarter of the town to teach. I gave no other reason to the committee, though I had two other reasons, one of which was, that I thought I evidently saw matters coming to some very great length, and that I thought I could not remain any longer; the other reason I would not choose to advance; it is a simple thing, but delicate; it is not respecting the committee, but the peace of my own family, my lord.

I do not ask you about that?—These are all the reasons I had.

You stated you saw things were going a length you did not approve, and therefore you left it?—That was one of the real reasons.

Had you any particular reason for forming that opinion?—Yes. I had.

Be so good as to tell the jury what it was?

—It was a paper that I heard read by one of the Sub-committee.

What committee?—One of the Sub-committee.

Who were present at the meeting of the Sub-committee when this paper was read?—Stoke, Watt, Downie, M'Ewan, and I.

As far as you recollect, what was the im-



port of that paper?—Which of those persons read that paper?—Watt.

At far as you recollect, what was the import and substance of that paper?—My lord, I can say very little about the substance; it raised such a panic in me, I could not sit to hear it; I can say very little about it.

But you must say that little, and you must say it to the jury.

Mr. *Anstruther*.—You have said you recollect little of that paper, it put you into such an alarm,—now tell the gentlemen what that was?—It seemed to me, the little I did hear of it, it seemed to have a kind of hostile appearance that alarmed me.

Can you recollect what word was in it that had an hostile appearance?—It mentioned, as a supposition, if a number of men could be collected together for certain purposes.

What were the purposes?—If I mistake not, it was to alarm the soldiery in the Castle; that was one thing that struck me in it.

How were they to alarm them?—I do not positively recollect, my lord.

What do you recollect?—That is part of what I recollect.

What more do you recollect; give us the other part of what you recollect?—I think it was to seize the guard-house.

What were they to do when they alarmed the soldiery in the Castle?—I do not remember as to that: I think the excise-office.—What was said in the paper about the excise-office?—I do not remember a word that was said about the excise-office, but only to seize it and the bank.

To seize any thing else?—I recollect nothing farther.

Do you recollect that any body was to be seized?—Not one.

Were any one person or persons to be seized? do you recollect nothing about the magistrates of Edinburgh being mentioned?—I do not. I do not recollect one name being mentioned.

Were any magistrates mentioned of Edinburgh?—I do not recollect.

Lord *President*.—Was any thing said about taking possession of the Castle, or seizing the Castle, or any thing of that kind?—If I mistake not, that was the intention of the soldiery being brought down from the Castle, but I cannot be positive whether that was really mentioned or not.

You were alarmed?—Yes, my lord.

The plan alarmed you?—Yes, those things that I have mentioned.

What did Arthur M'Ewan say after the plan was read?—If I recollect well, he said he would by no means go on with any thing of such a nature.

What did you say?—I answered, no, by no means; if I recollect well, those were the words I used.

The thing which Arthur M'Ewan said he would not go into, was the same thing to which you said, no, no?—Yes, he no means, if I well recollect.

Did any body else say any thing about that?—I do not remember a word farther spoke about it.

Do you mean to say, no more was said about it?—No more was said about it.

What became of it after that?—It was immediately placed in a press, in one corner of the room.

Who were they that were to be collected to do this?—As to that, there was no person named, nor place from whence they were to come.

Who did you understand were to be the people to execute this?—I was naturally led to suppose, my lord, it was meant to be done by the Friends of the People.

Jury.—Where was this meeting held, when this paper was read?—It was at Mr. Watt's own house.

Was this upon a committee night?—No, my lord.

What night was it then?—If I mistake not, it was a Thursday evening.

For what purpose did the committee meet that night?—For the purpose of writing a letter, if I recollect right.

Now whom was that letter to be written to?—I think it was to Mr. Hardy in London.

What was the letter about?—I have entirely forgot; it was an answer to a letter they had received, but I never had it in my hand.

Was it about a Convention?—I never had the letter in my hand.

Was it a printed letter, or a written letter?—I think it was a printed letter.

Is that like it? Did you hear it read.—Yes. [The Circular Letter, signed T. Hardy, shown the witness.]

Is that like it?—I think so.

Mr. *Anstruther*.—This is a letter upon which the committee met; it was a special purpose, you said before?—Yes.

What other conversation was there at that meeting?—If I recollect well, there was no other business for them that evening.

But there was some conversation?—As to conversation I remember none, my lord.

Was there, or not, conversation about arming?—Not a syllable, as far as I recollect.

Was there any conversation about an invasion?—I remember not a sentence but what I have told, that passed that evening nor no other personal conversation.

Do you recollect whether that answer was or not agreeing to that letter?—I do not recollect.

You wrote an answer?—An answer was wrote that evening.

Who was to carry that letter to Hardy?—Was it to go by post?—No, my lord, it was to go by shipping.

It could not go to the ship without somebody carrying it—it could not find its way to the ship?—I do not know who carried it.

In the committee, was there any particular person pitched upon to take it to the ship?—There was a person pitched upon to take it.

Who was it?—Mr. Stoke.

What was it in answer to?—It was, I recollect well, an answer to that letter you have shown me.

Where did you go after you had left the committee?—We went up the town a little, and took some small refreshment, as Stoke was about to leave the place in a day or two.

Who went up the town?—All the members that were present.

Where did you go to?—I take it, it was a public house; I never was there before, nor since.

What part of the town was it?—It was up above the prison here.

Do you know Forster's Wynd, or Liberton's Wynd?—It was the wynd above the gaol.

Did you ever hear of a woman called Mrs. Mason?—Yes.

Was it there?—Yes.

Did you ever go there again?—Yes.

Had you any conversation about this paper with Mr. Watt?—Not a syllable.

You had no conversation about it going up the street?—No.

Had you no conversation with Mrs. Mason about it?—No, there seemed to be a stranger there; there was a stranger that just came into our company, a little after we were met; at least he was so to me.

I think you said you were very much alarmed by hearing this plan read, Mr. Bonthron?—Yes.

And you gave as a reason, because you thought it an hostile paper?—Yes, it had the appearance of it.

Did you determine to continue in the society after that, or did you determine to leave it after that?—I determined to leave the society after that; in a day or two after I came to a full resolution.

Did you take any steps for announcing that resolution to the public?—Yes, my lord, but I did not put it in execution.

Now what did you do?—I intended to advertise, but there was a circumstance in my own conduct that prevented me.

What did you mean to advertise?—That I wished to drop all connexion with it.

Did you write a few lines?—Yes.

When did you write it?—That same week that I left the committee, towards the end of it.

This was a Thursday night this meeting was?—Yes, my lord, but notwithstanding that I resolved—

Mr. Anstruther.—The meeting was on a Thursday night, and you wrote your advertisements sometime in the course of the week?—I think it was.

You are sure you wrote the advertisement within a few days after the meeting you have been talking of?—I believe, my lord, it might be the following week.

Was it within a few days?—It was.

Was what passed at that meeting your reason for writing that advertisement?—Yes, that together with other circumstances.

Read this, and tell me whether that is the advertisement you wrote?—Yes, my lord, it was wrote on the Monday evening; and I thought I might as well go back on the Tuesday, and take my leave of them, which I did.

Was this written the day it was dated?—Yes or I have mistaken the date.

[Paper read.] “Mr. Bonthron to the public.”

“Broughton, April 21. I William Bonthron, teacher in Broughton, a new chosen member of the Committee of Union, in March last, and sub-committee; but, for reasons of weight with me, declare, that I have dropt all connexions or communications with said committees. WM. BONTHRON.”

What did you do with that?—I just laid it by, as there was a circumstance—

I am asking you about that paper; you laid it by; did you keep it yourself?—Yes.

Did you keep it till you were taken up?—I suppose I was perhaps 6 or 7 weeks taken up before it was sent for by one of the officers; they went to my house; they got my key; the sheriff ordered me to give my key.

Was it in your house that it was found?—Yes.

Did the sheriff's officer bring that paper?—Yes.

Now, you say that paper was written on a Monday, and you went back on the Tuesday to the committee?—Yes.

You went back to another meeting of the Committee?—Yes.

What did you do there?—I do not remember any business that evening.

Did you take leave of them?—Yes, my lord, I took leave of them, and took leave of the society of which I was a member.

Did you take leave of the committee and the society?—Yes, both in one week.

Was it the same reason that made you leave the committee as made you leave the society?—I gave the same reasons.

Had you the same reasons in your own mind?—Yes.

Do you know a lad of the name of Fairley?—Yes.

He is a friend of your's?—Yes.

He lives at Broughton?—Yes.

An intimate acquaintance of your's?—Yes.

Mr. Anstruther. Tell me your reason why you did not publish that advertisement?—The reason was, because I met with the lad Fairley, and wrote two or three lines to him; and after he went away, he found fault with my conduct, because I had left all the committees.

What were the two or three lines about?—It was to Mr. Watt; I directed him to advance a few shillings to him, as he was going to Falkirk to see a sister; he told me he had some commission to take.

From whom?—He did not mention the person.

Who was the commission from?—Mr. Watt.

Who else?—No other person.

What money was he to get?—Purely out of friendship.

What money was it he was to advance him?—I do not recollect, it was a few shillings; which he was to account for on his return.

Whose money was it?—I suppose if there was a few shillings in Mr. Downie's hands, Mr. Watt could give it him.

How was money to come into Downie's hands?—If there was a few shillings over.

Over what?—Over what we collected for defraying other charges.

Then it was the committee's money he was to get?—I supposed so; I did not understand he was to give it out of his own pocket.

Had Downie the keeping of the committee's money?—For any thing I know.

Do not you know he had it?—Yes, my lord, he had it formerly.

While you continued a member of the committee, Mr. Downie had the money?—Yes, my lord.

Why was the committee money to be advanced to the lad Fairley? I suppose you did not advance the committee's money to any unless they were upon your business,—why was it to be advanced to Fairley?—It occurred to me, if Fairley was going to take a commission from Watt, he would ask for a few shillings.

Was Fairley going upon the committee's business, or Watt's private business?—I never asked him; he never told me.

How came you to desire the committee's money to be advanced for private business of Watt's?—I only desired, as he was sending a commission with him, that he would advance a few shillings, to assist him upon his journey, for which he would account with him.

Why was he to account with Watt, he should have accounted with Downie,—what money was it you meant he should advance to Fairley, was it his own money or the committee's money?—My idea was, it was the committee's money, if it was the committee's business, but that I did not know, he did not say it was the committee's money.

Do you know if the money was paid to Fairley?—I do not know that Fairley got a shilling of it.

Did Fairley ask you to write again to Watt or Downie for money?—No.

You never went back to the committees?—No, nor no society; there may be an inconsistency of taking leave of that society and committee, and writing that line.

Then there would have been no inconsistency, if that line had been about your own private business?—No.

Look at that, tell me if you know any thing about that?—[showing a paper].—Yes, my lord,

You recollect that?—Yes.

Where did you copy that from?—I took it from a copy that was drawn by the committee of Union, at least a copy that was drawn in

that committee was given to me, and I drew that from it.

What did you do with that copy?—If I mistake not, it was read in the Broughton society, and went from that to another society.

Did you do any thing in the Broughton society in consequence of this?—Yes, my lord, there were 2 or 3 delegates chosen, to attend the Committee of Union.

Which was the Committee of Ways and Means?—The Sub-committee.

Whom were they chosen from?—They were chosen from the Committee of Union.

How often were they changed?—The Sub-committee?

Yes.—There was no change during my stay.

Was it an open or a secret committee?—There was none of them, committees or sub-committees, open to any one that appeared, unless they were members.

Was the Sub-committee a secret committee?—I know nothing about the name secret committee.

Was it so in fact, did you let any body in but yourselves?—We never all met but one evening, except the first.

I ask whether you ever let any body into that committee?—Any persons that had any business.

What sort of business?—Such as a letter to give. Any body that had business with the committee came in.

You know what a secret committee means, do you?—I do not know what you mean.

But you know what the words mean?—Just such a committee that wishes to have their business in secret or private. I mean we had always our door shut, and no persons came in except they had business.

And the Committee of Union was the same?—No persons attend, as far as I know of it, but members.

Did you ever hear of such a thing as collector?—Yes.

Were they for districts, or divisions of the country?—I suppose it would rather be in numbers.

By saying you suppose, do you mean that you understood it was to be in numbers?—Yes, I suppose so.

You may as well drop the word suppose?—I use the word suppose, because I am not altogether certain.

Look at that paper, did you ever see a paper of that size?—I have seen that in manuscript.

Where did you see it?—I think it was in the committee, when it was wrote.

What committee?—The Sub-committee.

You said, you never all met but once?—Yes, my lord, viz. the first evening.

Was it on the first evening when you saw that paper?—That was neither the first nor second.

When was it?—I do not recollect the evening.

About what time was it?—I suppose it



would be about the first of March, or thereabouts, or April, I think.

Now, in whose hands did you see that manuscript?—Mr. Stoke's hand.

Was it written in that committee?—Yes, my lord.

Who was there when it was written?—I do not recollect the members that were present; I cannot recollect, some of the members might be absent.

Which might be absent?—I do not know who were absent.

Was it a full meeting, or small meeting?—Only four; there were three gone.

They could not be gone before you saw Stoke write that paper?—I suppose three were gone—two gone, I mean.

Do you remember whether the other five were there that night?—I am not positive.

Was Arthur M'Ewan there?—He was absent two nights.

How many times were you at the Sub-committee?—I cannot answer to that.

Were you there 10 times?—Perhaps I was there the half of it.

Then you were there 4 or 5 times?—Possibly I was.

By possibly, you think you were?—I am not certain as to the number.

It might be one more or less?—Yes.

You are sure it might not be 10 times?—It is impossible it could be that, owing to the time of my leaving it.

Tell me whether Mr Watt read it?—I do not think it,—if I recollect well, there was no business that night, except the answer to Hardy.

Was this paper read in the committee?—Yes.

What was said about it?—I know nothing farther: any farther than it was wrote, and he was to take the management of it.

Who was to take the management about it?—About what?

The letter which was to go to Hardy, the paper about the Fencibles?—I know no more than I saw it when it was wrote.

Did nobody say any thing about it in the committee?—I do not remember a word.

Was it a public paper of the committee, or a private thing of Mr Stoke's own?—Mr. Stoke brought it into the committee.

Do people do any thing in the committee, but the committee's business?—No.

Then, when Mr. Stoke was writing that paper, and when he read it, it was about the committee's business?—I have told every thing I know about it.

Did you understand him to be writing that paper about the committee's business?—Certainly, my lord, I never imagined it was private, when it was done in the committee?

Was Downie there that night?—I cannot say whether he was, or was not, but I think M'Ewan was absent that night.

Then the committee was reduced, if Burke was away, and Watson away and M'Ewan

not there, then the committee only consisted of Watt, Downie, Stoke, and yourself?—Yes.

Now Stoke was there?—Yes.

Was any body there besides you and Stoke?—Yes.

Were you and Stoke alone?—No, my lord, I do not think that.

Was any body there besides Stoke?—There were only two remaining. I am not positive.

What do you think about it?—I think they were present, I cannot say for certain.

[The paper read.] This paper is dated, Edinburgh, 5th of March, 1794.

"The general committee having met, C. E. Stoke appointed preses, and citizen Robertson secretary; the business commenced, by forming a plan of organization for the Friends of the People in Edinburgh; citizen Watt proposed to recommend to the different societies to choose a permanent committee to sit once a week; and that they should be a committee of 7 to be empowered to transact the business of the Friends of the People; the committee to report to the different societies; and that this committee recommend to their different societies to choose two or three members for the committee to meet on Tuesday next, at 7 o'clock, and that they choose the Sub-committee to sit the same evening, and report to the General Committee."

Mr. Clerk.—You spoke about a paper that alarmed you much; did you hear such a paper was to be read, before you went to the committee that night?—No, I never heard a word about it; the paper was just laid by, and not a word said about it.

It was taken up by Watt, and read?—Yes, and then laid up by Watt.

Did you conceive it a proposal made by Watt, for the adoption of the committee?—No, my lord, I never viewed it in that light.

In what light did you view it? Was it a scheme to be put in execution by the committee?—I dare say, that committee never would have adopted such a scheme.

I think you said M'Ewan expressed his abhorrence at the scheme, and you expressed yourself much to the same purpose?—I said, no, no.

Did you understand these expressions, as consistent with the opinion of the rest of the committee?—As to the expression, the rest of the committee did not express approbation or disapprobation.

Was it a scheme proposed by the committee?—I never looked upon it in that light, or that it was read with that view; I knew nothing of whether Mr. Watt wrote that paper.

Did you conceive it merely as matter of curiosity?—I rather considered it as a kind of phrenzy, my lord.

Did any of the members of the committee express any approbation of the scheme?—None that I recollect.

Had you any conversation with Downie

about it afterwards?—Never a syllable, as far I recollect.

Can you affix any reason for that; for not conversing with the committee about this strange paper?—I never was in the committee but one time after; I never saw Mr. Downie after, but one day I passed him going to church. I never saw Mr. Downie after that evening.

Who took the chief lead and direction of the business of this Sub-committee?—Mr. Stoke and Mr. Downie wrote any thing they had occasion to write.

Mr. Anstruther.—Mr. Stoke and Mr. Downie wrote any thing they had occasion to write?—No, not Mr. Downie.

Mr. Stoke and Mr. Downie you said.—It was a mistake.

Who was employed by the committee?—I do not understand you.

Was Downie an active member of the committee?—He was a member.

Did he interfere much in the management of the business?—No, not any further than taking a few pence that was brought to the committee, but never kept any book as I know of.

Was there much money collected?—No, my lord, while I remained there was not.

Could you give a name to it?—I could not.

Was there 20s. 30s. or 40s.—I could not give it a name, my lord, on no account.

Was there 100*l.* collected?—There might not be 100*l.* for me.

Mr. Downie took the whole that was collected?—Yes.

And paid for the room?—Yes, I understood so.

Had you any book?—No, no book.

No minutes?—No minutes, my lord; there was no preses chosen, nor no minutes.

Do you know, from your own personal knowledge, that Mr. Downie received any money at all?—I know of my own personal knowledge, that I have seen Mr. Downie take up a few pence, and jot it down to pay for the room.

Have you seen any money paid by him?—Yes, a few shillings.

Can you tell what was paid to him?—It was impossible for me to tell.

I ask you what you know from your own knowledge?—I have said I have seen a few shillings paid in at the time.

And that is all?—Yes.

Mr. Anstruther.—Were you present at the Sub-committee on the first of April, do you remember?—My lord, I cannot recollect as to the day, it is impossible.

Do you know Mr. Downie's hand-writing?—I do not recollect his hand-writing; except in the sheriff's office, I never saw him write down what he had, he jot that down for a few pence.

Mr. Clerk.—You say the cause of your alarm was, they were to carry things to an extraordinary length; do you think that Mr.

Downie was one of those who meant to do so?—I never understood the measures in that paper were to be carried to any length at all, but that paper was just to be thrown by and destroyed; I never understood that was ever to appear in that committee again.

I thought you mentioned your reason for leaving that Sub-committee was, you were afraid they were going to push measures to an extraordinary length, did not you say so?—I said it went extraordinary lengths, but I did not think it was to be carried into execution.

Was Downie one of the people by whom you were afraid it would be carried to extraordinary lengths?—No, sir, I never saw any thing in Mr. Downie, that gave me the least occasion for any alarm.

Have you seen Mr. Downie?—Yes, I have seen him in different committees and places.

What is your opinion of his disposition?—I do not know whether it is a fair question, my opinion about any body's disposition; I do not think it a fair question.

Do you conceive Downie to be a man of a peaceable, quiet disposition?—I never saw any thing to the contrary.

Mr. Cullen.—You had no acquaintance but in the committee?—None.

Were you acquainted with him before you came into the committee?—No, I once occasionally was with him, I had no acquaintance with him.

Mr. Baron Norton.—Will you tell us as to that paper that gave you so much alarm, that you did not think was fit to be carried into execution, can you tell what way it was introduced in the committee?—To the best of my recollection, our meeting that evening was to answer a letter that came from London: I know of no other business; it was to be before the committee that evening; and Mr. Watt just took this paper from his pocket, or from the press, and read it, and put it down.

And did not say a word about it?—No.

Nor why he read it?—No.

Nor about what he was going to read?—He said he was going to read a paper.

Did he say he had ever shown it to any person before?—No, my lord, he did not.

Mr. Gardner sworn.

Mr. Anstruther.—Do you know Mr. Downie's hand-writing?—Yes, and I have a letter in my pocket, which I received from him when he was in gaol.

Will you look at that, and tell me whether it is his hand-writing?—I am certain David Downie is his hand-writing.

Is the postscript?—I think the postscript is, but cannot be sure of it.

Look at that?—It certainly is; I have had so many years an opportunity of knowing his hand-writing.

You are sure that is his hand-writing?—Yes.



Mr. Cullen.—There is a circular letter for collecting money, I wish to ask Mr. Gardner a question about it.

Cross-examined.

Mr. Cullen.—Be so good as to look at the printed letter, and see if the interlining is Downie's hand?—It is better wrote than he writes in general; it is not like the subscriptions I have had from him. I cannot say whether it is or not, because it is better wrote than any thing I ever saw written by him.

You have been long in this town as one of the society of goldsmiths?—Yes.

Has Mr. Downie been long a member of that society?—He has been 24 or 25 years, and has been doing business for me since 1768.

What is your idea of his character, as a man of good disposition and deportment?—During all my acquaintance I thought so. I have often employed him in my own trade.

Did you remark his temper and benevolence?—As to that, I never had any opportunity of knowing it at all. It was always in the way of transacting business.

Diligent and honest?—Yes.

Did he bear a good character in the corporation?—Yes, I always looked upon him very attentive in managing his own affairs, as far as I can see.

Did you ever know any thing to the contrary, any thing against his character?—I never had cause to say he did any thing wrong to me; as to his private character in any other dealings with the world I could say nothing of it.

Peter Mathie, (jeweller) sworn.

Mr. Anstruther.—Do you know Mr. Downie's hand writing?—I do.

Tell me if that is it? This is Mr. Downie's signature.

Tell me if the postscript is his hand-writing that follows the signature?—Yes, I think it is.

You think it is?—Yes, I think it is; I am certain the subscription is, and the other is exceedingly like his hand. (The prisoner desired to see the letter and the printed letter).

Witness.—Mr. Downie was asking me if I was asked if this was his hand-writing, (showing the printed letter) I said it was not.

Prisoner.—Do you think it is?—No, I do not think it is.

Mr. James Hunter sworn.

Mr. Anstruther.—You are a clerk of the bank?—Yes, sir, teller.

Do you find in the Bank any bill for 15*l*. paid to Mr. Downie?—Yes, I do.

What Bank Mr. Hunter?—The Bank of Scotland.

Is that Mr. Downie's receipt upon the back of it?—It is presumed to be receipted by Mr. Downie.

VOL. XXIV.

Is that the receipt of the person that got the money?—Yes, it is.

Is it the practice to put it in that manner when he receives it?—To put received above his name.

You paid that money?—It appears in my book to have been paid the 16th of April.

Does it appear it was paid the day it should be?—It does not appear.

But paid to Miller 15*l*.?—Paid 7th of April.

Number 11. 15*l*. 7th of April.

Six days after date, pay Walter Millar as advised by Wm. M.

To the Treasurer of the Bank of Scotland.

Indorsed.—Pay the within to the order of David Downie.

Clerk of Arraignment.—This letter is directed to Mr. Walter Miller, care of Mr. Peter Craig, at Mr. Robert Whyte's, merchant, High Street, Perth. This letter is dated, "Edinburgh, 9th April, 1794.

"Sir,—I would have wrote you yesterday on receipt of yours, containing the bill of 15*l*. sterling on the Bank of Scotland; but by your omitting to send me your address, was prevented; and finding nobody here who could inform me, as there are so many of your name at Perth, I direct this letter to the care of a person who, I was informed, would not neglect the first opportunity of transmitting it to you.

"The committee, to whom I showed your's and its contents last night at their meeting, empowers me to transmit to you, and all their friends, their hearty thanks for so liberal a remittance, and to assure you, it will be applied to the most proper ends in view.

"There are no letters from L. as yet, but you will see in the London papers mention made of holding the Convention.

"We have had here an affray of a very serious nature at the Theatre, on Monday last, the occasion of which was this:

"There was a tragedy to be performed of the name of Charles the first. The play began, and was going on with the greatest harmony and decorum, when some furious Aristocrats, wanting, no doubt, to try the disposition of the people, called out for the tune of God save the king. The tune was just beginning, when an universal hiss, mixed with lamentable murmurs, pervaded all over the house; and the sons of the fiddle were obliged to desist, and they played the tune of Maggy Lauder, which met with universal applause. The discomfited Aristocrats, not knowing what to do, in order to effect their purpose, called in the Fencibles in the Castle, with their officers, and then desired the royal song to be again attempted, when, meeting with the same treatment as before, the officers drew their swords, and the soldiers their instruments of death, to deter the unarmed multitude from opposing the song of their

G



royal master; and these heroes went to such a length, as to cut and maim several people in the pit, who refused to take off their hats as the tune was going on. I am sorry to say that some of our best friends have been bruised very severely. After the tune was over, the play went on as if nothing had happened;—none of the newspapers here take any notice of this. We have also a report that the Fencibles just now in the Frith have been very turbulent, and that an armed boat was sent to overawe them, and to reduce them to subjection; and that the Sans Culottes fired some balls into the boat, when it thought proper to sheer off. We have received news this day of orders being given to stop the recruiting, and we have some reason to believe it, as it came from one of our baillies.

"We propose to send you a parcel by the carrier. Will you be pleased to send us your address as this comes to hand. I am, your very humble servant, DAVID DOWNIE.

"Edinburgh, 9th April, 1794.

"P. S. We are happy to have it in our power to assure you from our information from England, and different parts of Scotland, that the late prosecutions, instead of retarding have accelerated the great cause of freedom.

"They have in all ranks created the desire of knowledge, of course increased the number of friends. If we can, therefore, judge from our assurances, the day is not far distant, when the people shall, as they should, be triumphant over the enemies of our country."

Mr. Anstruther. The gentlemen of the jury will understand the body of the letter is written by a clerk, or somebody or other, and signed by David Downie. The postscript is written by Downie himself.

[Another paper read].

This begins, "—Sir, Last night at a meeting of the F. of the P. in Edinburgh, a motion was presented by citizen William Robertson, in consequence of a representation from citizen David Hunter, that you wished to be informed of the state of the public spirit in the city, and that you likewise desired to have some subscription papers forwarded to you; whereupon it was resolved, that the sub-committee should be authorized to write you, and while they transmit you the subscription papers, requested to inform you at the same time, that the spirit of freedom, notwithstanding all the unconstitutional measures, lately adopted, is by no means depressed, but, like a fire attempted to be smothered, increases tenfold, and will ere long consume all those who attempt to extinguish it.

"There are many things which we may wish to write, which perhaps, in the present crisis, it would be imprudent to commit to paper. We shall therefore conclude with wishing an increase to the number of the

real friends of freedom all over the globe, and of the friends of constitutional reform in this island in particular.

"When you, or any of the worthy members of your association, have business this way, we shall be happy to see you. Societies of the F. of the P. meet every night, except Saturday and Sunday, either at C. Robertson's school, Symon's square,—Philips' school, Calton, or C. George Ross's, Liberty-court, South Bridge.

"In the name of the Edinburgh Committee of the Society of the F. of the P. I am."

Clerk of Arraignment.—There is no subscription.

"P. S. Either on Saturday, or at farthest on Tuesday next, you may expect the first number of the new Gazetteer, which will then begin to be published in the spirit of the old. Lest the proprietors should fall short of funds to pay the stamp duties, it is proposed that every subscriber should pay per advance.—Subscriptions by C. George Ross, Gazetteer-office, South Bridge, who will grant receipts for the money.

"Sub-Committee, April 1st.

"Resolved, that Mr. Reid the former treasurer be requested to continue in his office, subject to the restrictions to be hereafter laid down.

"Resolved, that till his determination be known, C. D. be requested to take charge of the monies which may be received by the committee this evening.

"Minutes.

"Report of the Committee of Correspondence given in.

"From the Canongate Society, No. 3, received the sum of one pound ten shillings and three pence halfpenny, which is hereby placed to their credit. DAVID DOWNIE.

"Regulations of the sub-committee with respect to the treasurer. April 1st, 1794.

"All monies that shall be paid into the treasurer's hands, from this day, shall be applied to such purposes only as the Committee of Ways and Means for the time being shall direct.

"The treasurer shall give a receipt to the said committee, for what monies he may have received from them.

"The treasurer shall not give up any part of the said monies, on any pretext, except on a requisition signed by four members of the sub-committee, and specifying the sum wanted."

Prisoner.—Gentlemen of the jury;—You will observe that is not my hand-writing, except the receipt for the money produced to show it. The receipt for money is my hand-writing. I acknowledge to have received that money. That is my hand-writing only; there is nothing of my hand but the receipt for the money.

*William Lockhart sworn.*

*Lord Advocate.*—Do you know a man of the name of Robert Watt?—Yes.

Where did he reside?—North-Bridge-Close.

You are sheriff's clerk?—Yes.

You had a warrant from the sheriff to search Watt's house?—Yes, to search for some goods alleged to be secreted there.

Did you so?—Yes.

Who was there?—There was Mr. Miller.

Remember what time of the day it was?—The 15th of May.

What time of day?—In the afternoon.

Did you find the goods?—Yes.

In Watt's house?—Yes.

Tell the jury what you found, and what you did there?—I found some pikes there.

Let us see them?—[Producing the pikes]. These twelve I found in a locked up press, in the course of my search: I took one up to the Sheriff Clerk's office, and informed him of it, and he gave me a warrant; I carried it to Watt's, and Watt was come into the house, and he was taken up to the sheriff's office.

Did you go back that evening a second time, or third time?—Yes, I did; I went back between twelve and one that night, to secure the windows of the house.

Did you make any farther search?—Yes, I observed a closet that I had not been in, in the former search, and we searched the closet, and there I found some more.

What did you find?—I found other two of this kind, and those two, and this pole.

Did you try whether they fitted with that pole?—I tried them before they came out of the house.

Try them again, and see if they fit?—

[Then he screwed on the halbert head].

Did you try the other?—Yes.

[Then he tries on the large one, which fitted in the same screw, and on the same pole].

*Court.*—What is the use of that thing you have in your hand now, explain it?—A small dart handle it is screwed into, to go upon a different stick or another, or to go over the top of the staff with the screw, without screwing on; it slips on that part, and comes considerably lower down over the head of the pole, and is changeable, like a bayonet fixed.

*Lord Advocate.*—What was done with those?—They were carried to Sheriff Clerk's office.

Did any thing else appear proper to be carried to Sheriff Clerk's office, that day or the next?—There was a fount of types found the next day.

*Cross-examination.*

*Mr. Clerk.*—Pray were you sent to search Mr. Downie's, the prisoner's house?—Yes.

Did you find any pikes there?—No, sir.

*Lord Advocate.*—How long after was it?—A considerable time after.

*William Middleton sworn.*

You are a sheriff's officer in Edinburgh?—Yes.

Do you recollect being employed to search the house of Robert Watt?—Yes, on the evening of the 15th day of May.

Who was employed in that search with you?—Mr. William Lockhart.

What was the purport of that warrant?—The purport of that warrant was to search for some goods secreted there, belonging to a fraudulent bankrupt.

Were they found?—They were found in a cellar, coming into the dining room of Watt's house.

Where were these spears?—The door was locked where they were. It was opened by the smith that had previously opened the place where the bankrupt's goods were secreted; I took one in my hand, and Mr. Lockhart said he thought it a dangerous instrument; it looked very uncommon; he thought it dangerous, and asked if there were more; I said yes; on laying them down on the carpet, there were 12.

Did you make any other search?—Yes, upon the second time, we went in upon the second flat of Mr. Watt's house, thinking we had not went too narrowly to work—we searched farther—we found two more pikes, two battle-axes, and a shaft—these are them.

Did you try them to the top?—Yes.

And did they fit?—Yes.

Did you make any further search after pikes?—Yes, I went to Robert Orrock, the smith, at Dean. I had a warrant from the sheriff.

What was it to do?—To search for spears.

Did you find any?—I found two or three and thirty of the same kind; those are the instruments that were found in the smiddy of Robert Orrock, the smith at Dean.

And in an unfinished state?—Mostly in an unfinished state.

Two or three and thirty?—Yes, I am not positive of the number.

What did you do then?—They were brought to the sheriff's office, and lodged there, and Orrock brought a prisoner along with them.

*Cross-examination.*

Do you recollect when you searched Watt's House?—It was in the evening of the 15th day of May.

Was that towards the end of the week?—About Thursday.

Did not you afterwards search Downie's?—Yes.

How long after?—I think about the Saturday after.

Are you sure it was not upon the Friday you searched Watt's house?—No, sir.

Did you find any thing in Downie's house?—No, sir; but there was a slate he said he had kept a journal upon, for the money under his hands.



I ask if you found any pikes there?—No, nothing of the kind.

When was it you searched Downie's?—I cannot positively say.

Was it the same night you searched Watt's?—No, I am positive it was not.

Was Lockhart with you?—Yes it was the same day that Lockhart and Dingle were searching Watt's house, I was present with them.

*Margaret Whitecross sworn.*

*Lord Advocate.*—Do you know David Downie, the goldsmith, is that him there?—Yes.

Were you in his service last winter?—Yes, I was.

What time did you leave his service?—At Whitsuntide.

Have you seen any thing like that before? [showing the witness the pike head]—Yes, I have.

Where did you see it?—In Mr. Downie's dining-room.

Was that before the term?—I think it was a great while before the term.

When did you see it?—I saw it in the morning, when I went to dust the dining-room.

What time?—I believe it was about 6 o'clock in the morning.

Did you ever have any conversation with your master about it?—His son came and took it away.

Was there any conversation between your master and mistress about it?—She asked him what he had done with the dividing knife.

Did he say whether he had got the dividing knife?—She asked Mr. Downie what became of the dividing knife that Charles found in the dining room.

What did he say?—I believe he said he had locked it by.

Had there been any body the night before in your master's house at supper?—No.

Who let your master in that night?—I did.

Was it late?—I cannot be certain; I had been in bed.

Was it four o'clock?—I believe it was; the son came out from his bed-closet in the morning, as soon as he heard me in the room.

And took up this knife?—Yes.

Is that the thing Mrs. Downie called the dividing knife?—I am not certain.

Do you know who brought it there?—No, I cannot say.

*Court.*—Did the son take it away from your own hand?—No, I had it not in my hand.

Did your master say any thing about it, when he came in late at night?—No, sir.

Did you ever hear your master propose taking any thing of the kind with him at night to defend himself?—No.

Had the son his clothes on when he came out of the bed-closet?—Some, but not much.

And he took it away?—Yes.

*Lord President.*—Had Mr. Charles, the son, been out with his father that night?—No.

Where did the son carry it to when he took it away?—I cannot say, he took it into the closet.

Who asked Mr. Downie what he had done with the dividing knife?—Mrs. Downie asked him what he had done with the dividing knife that the son had in his hand.

What did he say?—He said he had locked it by.

*Lord President.*—When was the question asked at Downie?—Sometime after; I cannot just recollect whether it was the same day or no.

Did Mr. Downie say any thing more about that dividing knife?—He did not say it was not a dividing knife.

Pray did you think Mr. Downie was speaking of an instrument like that, when he was talking of a dividing knife?—No.

Did you know what he was speaking of?—I did not know.

Are you sure the instrument you saw was like this?—To the best of my knowledge I think it was.

Had it such a thing as this and that? [Pointing to the axe and hook parts.] I think it had, but I had it not in my hand.

When did you see it?—At 6 o'clock.

Did you take a good look at it?—Not a very good look.

Did you think what it was at the time?—I never had seen such a large dividing-knife.

Would you take that for a dividing knife?—I cannot say.

Pray is not your master a dealer in old blades of swords, and different instruments?—No, sir.

*Mr. Cullen.*—Had not he a working furnace?—A small working turnace.

Were you looking at it when the son came and took it up?—No, sir.

Did he go to his bed again after he took it up?—I cannot say, sir.

*Court.*—Did he seem to have any other business in the room than taking up the knife?—I did not see any other business he had.

Did you never tell your neighbours about a thing of that kind?—One day the neighbours happened to be speaking about it. I do not recollect; they were speaking about something, and I happened to be speaking about it.

It did not strike you, you had seen a thing of that kind before?—No, sir I did not think much of it.

*Lord President.*—Had you been in the room, the night before?—Yes.

Were you late in it?—I could not recollect.

How long before were you in that room?—I could not say.

Did the family sup in the room?—I cannot say.

Is that the room they commonly eat in?—Yes.



Did not you say you had been in bed before your master came in?—Yes.

Mr. Callen.—Did you let your master in that night?—Yes.

When did you quit Downie's service?—At the term, the 13th day of May.

Did you differ?—Him and I differed before I came away, and I did not get all my wages.

What was the occasion?—I had given good warning to my mistress before I went; I then engaged myself to another place, and my father came a day or two before the term, and took me away; and my mistress would not pay.

Court.—She says her father came two days before the term, and took her away.

Was there any other cause?—No, and I did my best to get another place.

Did Mrs. Downie find fault with your conduct in any other particular?—No sir, not that I know of.

*Robert Orrack sworn.*

Mr. Solicitor General.—You live at the Water of Leith?—At Dean.

Were you a member of the British Convention that met last winter?—Yes.

You were a delegate to it?—Yes.

Do you know that the British Convention was dispersed by the magistrates?—Yes.

After that, do you know of a committee being appointed and meeting?—I know that there was, but it was a good time after that.

How long after?—I cannot say.

Would it be a month or six weeks?—Certainly it was more than that.

A meeting was held?—There were some meetings in the town.

Did you ever hear of such a thing as a Committee of Union?—Yes.

Who composed it?—I do not know.

Do you know any of them at all?—Yes.

Were they chosen from other societies?—Yes, from other societies. There were different ones chosen; some chose more than one—I suppose two or three; but, in point of

asking who the members were, there were very few that I for my part knew perfectly, but there was from that society that I came from, the Water of Leith, there were Mr. Arthur M'Ewan, and William Farquharson, and myself.

Who else?—Mr. Watt, Mr. Downie, Mr. Stuke.

Were you yourself a member of that committee?—Yes, I was.

Where did the committee meet when the society was sent to?—I do not know whether word came to, but our society met, and delegated for to go.

Where was that?—At George Ross's.

Were you ever present at more than one meeting?—I was present at many—at different ones. I was not present every night there; often from business I could not get to attend.

Were you there when there was any conversation about arming?—Yes I was.

Tell us what was said, and who said it?—It is rather a thing that baffles me— you speaking to me.

Be so good to tell what passed at this committee?—I was reading the newspapers; there were different ones reading the paper, and I myself for one.

Mention who it was?—I will mention it when I have time.

Tell your own story, it is best.—That is best. There were different ones reading the paper, and I myself for one, as I said before; there was great talk in the paper of a French invasion; there was likewise said, but positively by whom I could not say, I suppose it was by Mr. Watt, as I told you before, that there were arms come down to the Goldsmiths-hall gentlemen; that was the words as near as I can say; I think Mr. Watt was the person that said so. Some one there said that we had better apply for arms, and it was said again, by whom I cannot say, there need no application; for, if the Friends of the People applied to government, they would get none. It was then said, I believe by Mr. Watt, I could not, as I have now sworn, say he was the person, that there was no law in existence to hinder us from getting arms for the defence of the country; at the time upon which I was saying this conversation passed, I said I would make one.

What kind of arms?—There is the stick.

What passed in the committee upon it?—There was no more passed.

You said you would make one of them? What did you mean by them?—What they had mentioned, to wit, weapons.

What did they call them?—I could not positively say that; they said they were pikes, and I said I would make a weapon for myself, which I accordingly did sometime after,—this was a considerable time after.

Tell now who were present. Was Downie present at this meeting of the committee?—Yes, Mr. Downie, Mr. M'Ewan, Mr. Bonthron.

And were any more?—I do not recollect who else was present, there were more people, but there were people there I never saw, and did not know their names—there was was very little said.

You accordingly made such a weapon?—Yes, I did. Upon making it Mr. Watt came to the Water of Leith, and he sent for me—I was busy working at home at the time; I did not go the first time—there came down a person again, and I went to the Water of Leith when I left work, and I asked who sent for me; I found it was Mr. Watt, and he asked me if I had made such a weapon.

He seemed to understand what it was,—What did you say?—I told him I had.

What kind of weapon was it that you made for yourself; like one of these?—No, like none of them.

What did Watt say?—Make a knife like a point of a sword,—it was a thick back and thin edge,—it was sharp on both sides as



point,—it was sharp at the point on both sides about an inch.

That was the weapon you made for yourself,—Mr. Watt said would not so and so be better?—I did not show it Watt, he only heard by representation what the weapon was like, before I showed him he understood what sort of weapon I had made, and of course said that would do better.

Did he make a drawing any thing like it?—As far as I saw he did not upon paper, but the table was wet, and he made it of that figure. He desired me not only to make it, but he desired after this was made according to his directions, I was to carry that I made for myself, and the other to the committee, and accordingly I did make and carry it; that is the very thing I made to his directions. —After I had made it, I was in the Committee of Union.

Did you produce the two weapons in the committee or the other room?—In the other room.

Who desired you to come there?—A lad came to me, I am sure I could not recollect his name; I produced them in the other committee, not the Committee of Union.

What do you call the Committee of Union?—It was the Sub-Committee. There was Watt, Downie, Bonthronne, M'Ewan, and another man I did not know.

Are you acquainted with Mr. Stoke?—Mr. Stoke was not there, and I omitted that last night too.

You speak every thing that is true now?—Yes; there was a man there, one Edward Wright, I saw giving money to Mr. Downie; I could not say whether he was getting or giving, but the one or the other was the transaction; I saw money passing.

At this Sub-Committee you produced the two weapons?—Yes.

Explain all that was done?—He said it was too short here [pointing to a particular part.]

Too short where?—Too short in the curve, the name that was given to it, and too short on the other side, but of the same shape.

It was too short in the curve, and too short on the other side?—The other man that was there drew one longer at both ends upon a paper, and Mr. Watt and Mr. Downie both said, you will keep that in your eye, and make them in that same form.

You were desired to make some more?—They asked me what would be the price.

Who asked you?—Mr. Watt: after that, Mr. Downie said not a word, he spoke no more, and the conversation was carried on by Watt, it was not long, it was a few minutes. Watt said, what is the price of them? I said, I cannot say; I had only made that on the stick, and this part of it; I had not made any more of them, I desired to go out, which I did, and I went into the other room, and he told me, says he, you will make a few of these—Mr. Watt said,—the word was without any number,—as I say,—I had given no price, he likewise gave me no number,—he

just came in when I was going away home, and Mr. Downie along with him.

Was Downie with you, when Mr. Watt gave you orders to make a few?—Yes, says he, make a few.

Where was this?—I was where I was sent for.

Mr. Solicitor General.—It was in the Committee of Ways and Means the pikes were produced, he was desired to leave that, and go to the other, and he was told by Watt, and Downie was with him, to make a few.

Did you set about making them after this?—Some few days after.

You set about executing your commission, in short?—Yes, a few days after.

There was no number mentioned?—No number.

And no price fixed?—There was no price fixed.

Did Mr. Watt, or any body else, come to you?—Mr. Watt did afterwards come to my shop.

You accordingly made them under Mr. Watt's order?—Yes.

What did he say?—He asked me if I had made them, or was making them, according to his order; I told him I had begun, but had done very little; says he, what is the reason? says I, my servant is gone away from me, and the other lad and I have other jobs going on.

How many did you make?—The order was given this time.

How many?—Says he, you will make 2 or 3 dozen of the cross pikes.

And did he order any of the plain pikes?—No, not at that time.

Look at these?—Yes, these are the very ones I made.

Mr. Anstruther.—What was the Committee of Union for?—The Committee of Union I suspected was for no other reason than petitioning parliament.

Was it not about a convention?—Yes.

You were to have a convention, were not you?—Yes, it was always said there was to be a convention; I never thought it was to be for any thing, but to collect money for the payment of the expenses of the delegates, that was all.

Court.—Were you paid by any body?—I was paid, not then: I suspected Watt to be my pay-master, but M'Ewan came to me that night, and said, I was to be paid by Mr. Downie, and he was to pay me the whole I had the commission for, which was 5 dozen; he brought me that word.

Did you ever go to Downie's in consequence of that order?—No.

You made those pikes in consequence of that order?—The only order, when Downie was present, was only to make a few.

Court.—You say now to make two or three dozen. Robert Orrock, I beg you will pay attention, for you said "only a few."

Did you ever go to Mr. Downie?—No.

Did you ever deliver any to Mr. Watt?—No more than the two to the committee.



You were a member?—Yes, Mr. Watt desired before I went away; he said, be so good as to leave your stick, and that weapon with me all night,—that night that Mr. Downie was present.

Did you leave the stick and pike?—Yes, I left this and the other one, I never saw it after.

Did you ever deliver any other?—Never one.

They were seized before you delivered your order?—He desired me to leave that with him all night, and the stick. I never saw him after.

*William Brown sworn.*

Mr. Anstruther.—Mr. Brown, had you ever an order to make any of these things?—Yes.

Did you ever make any?—Yes.

How many did you make?—I made 14 of of that kind, and one like this.

Show which?—I made fourteen of that kind, and one of that, [the single spear 14, the other the halberd]

Did you deliver these pikes?—Yes, I took them to Mr. Watt one afternoon; Mr. Watt, when I took them in, told me he was sorry he had not money to pay me; I told him I was needing the money; he seemed as if he would borrow the money—he said Mr. Downie would pay me; he gave me a line to Mr. Downie to pay me.

How much?—Twenty-two shillings and sixpence, that was the price of 14 of these, and one of these.

What was the plain long ones?—Fifteen pence.

What was the other?—Five shillings.

Mr. Clerk.—What was the line?—The line was, for Mr. Downie to pay me 22s. 6d. and I was to account for it.

Was there no other order?—No order what it was for.

Had you any conversation about it with Mr. Downie?—I am not certain but Mr. Downie might have asked me how Mr. Watt was, but there was no altercation between Mr. Downie and me. I got the money upon Mr. Watt's line.

You did not say to Downie what it was for?—No, he never asked me.

*Cross-examination.*

Mr. Clerk.—Did Downie ask you what the money was for?—No, he did not.

Mr. Anstruther.—Your evidence is this—Watt gave you an order upon Downie, and Downie paid you the money; is not that it?—Yes.

Downie paid you the money?—Yes.

*William Watson sworn.*

Mr. Anstruther.—Do you know that gentleman that is sitting there between those two soldiers?—Yes, sir.

Who is that gentleman?—Mr. Downie.

Did you ever see a paper about the Fencibles?—Yes, sir.

Did you ever see that gentleman at Mr. Ritchie's shop door?—Yes, as I was going by.

Where is Ritchie's shop.—In the Lawn Market. I heard of the paper, and I was anxious to see it.

What paper?—That paper, an address to the Fencibles.

Is that the paper you were inquiring after?—Yes, at least it is the one I saw: I asked him if he could satisfy my curiosity to see a paper of the kind I had heard of; and he said he could not, but if I would follow him down the street, he would get me one; and he carried me to Mr. Watt's; we went down there, but we did not get it there; then we went to Mr. Kennedy, and the name of Montgomery was upon the door at the South Bridge.

What passed there?—Mr. Downie went into the back shop of Mr. Kennedy, and a little time after that I followed, and Mr. Kennedy gave them me.

Gave you what?—These papers.

Was Downie there when he gave them you?—Yes.

Tell us how he gave them you?—Mr. Downie, after he gave them me, took them out of my hand, and threw them down upon the floor, for fear any evil might accrue to Mr. Kennedy.

What more?—He bid me take them up.

Did he say any thing else to you?—No, only to say I found them.

Was there one or two of these papers?—No, there was a good number of them.

Was there a good number of them?—There was upwards of twenty of them; I did not number them.

For fear any harm should accrue to Mr. Kennedy, what did you do with them?—I gave them to several of my acquaintances.

Where?—In Dalkeith.

Were the Hopetoun Fencibles there at that time?—They were there about that time; whether a short time or not before, I could not tell.

There had been some marched through before, had not there?—I cannot tell.

It was just about the time they were there?—Yes.

Were they expected at Dalkeith at that time?—They were there about that time.

Do you know a man of the name of Johnston?—Yes.

Did you give him any?—I gave him one.

Whom else did you give one to?—I gave one to Elliot.

What did you say to him?—I do not remember saying any thing more; we had some conversation about the curiosity of it.

How came there to be such a curiosity about it? are you a Friend of the People?—Yes, I was a Friend of the People.

I believe you were secretary to one of their societies?—Yes, I was secretary to the society at Dalkeith.



Did you see Downie before?—Yes, I saw him in the Convention some time.

Did your acquaintance commence in the Convention?—Yes.

That would be a society of Friends of the People?—Yes.

How came you to think that Mr. Downie was likely to satisfy your curiosity?—I thought possibly he might have them.

Does he deal in them?—I thought possibly, being an acquaintance, he might let me have them.

Did you ask Mr. Ritchie about them?—Perhaps I might.

But do you remember you asked Downie?—Yes.

Did you ask Ritchie?—I might have asked him.

Did you ask him?—I might have asked him, but I do not particularly remember.

Whom did you give it to beside Elliot?—I gave one to a lad.

And one to Johnstone?—Yes.

What did you do with the rest?—There were some others got them.

What did you do with the rest?—After people said they would be hurtful, I destroyed the rest.

You were told they would be hurtful before Downie said they would be hurtful—come, remember yourself, who told you they would be hurtful?—I do not remember; I heard several people speak about them—they said, the people would say, if the fencibles saw them, there would be some disturbance.

Do you know a man of the name of Wright?—No.

Did he bring any to you?—No.

And you gave none to him?—No.

Who is Johnstone?—He is a miner.

Where does he live?—He lives nigh Dalkeith.

A mile or two from it?—A very short way.

Is it as far as it is from the New Bridge?—I cannot possibly say.

Is it as far as the Cross?—It is just across the river.

Is it half a mile?—Scarcely.

*William Johnstone sworn.*

Do you know a person of the name of Watson?—Yes, he is a young man of Dalkeith, son to Robert Watson.

Have you seen him just now?—I have seen him come out of yon' house just now.

Did you get a paper from him?—Yes.

Is the paper like that?—Yes, I think it was.

What did he say to you when he gave it to you?—To the best of my remembrance he said I might take a look at it.

Did you look at it?—I did.

What did you do with it?—I gave it to James Sandilands.

Was there any person present?—I cannot whether there was any person present  
It was in the public street; there

might be persons in the street, and yet none in company.

Was any man in a red dress and philibegs?—No.

I believe Lord Hopetoun's is not a highland dress?—No, I believe it is not.

Were there any soldiers there at that time?

—I do not think but there were soldiers in the street, perhaps there might be soldiers within a few yards.

Was there any as near as that gentleman to me with the spectacles?—I cannot say as to the distance.

Was it thereabouts?—I cannot positively ascertain the distance.

Was it 100 yards?—Oh! certainly it might be within less.

Was it less?—I cannot ascertain the distance.

Whereabouts was it?—I can give you no regular account.

It was no great distance, was it?—No very great.

What did you say to Sandilands?—I said he might take a look at it.

No more?—I cannot remember.

Now do recollect yourself?—I have thought of it again and again.

Are you sure you said no more to him?—It might escape my memory, because I did not charge my memory with it.

What did Watson say when you took the paper?—I do not recollect.

What were you to take a look for?—It was not mentioned.

Are you a member of the Friends of the People?—No, I never was.

Do you know whether Sandilands can read?—I suppose he can.

Do you know he can?—I cannot ascertain as to that.

[Sandilands was brought into court]—Is that the man you gave it to?—Yes, sir.

*James Sandilands sworn.*

Do you know that man that is just gone out?—Yes.

Did he ever give you a printed paper?—Yes.

Did you read it?—No, I never did.

Whom did you give it to?—Serjeant Hardy.

What is your name?—James Sandilands.

What are you?—A miner.

What is Hardy?—He is in lord Hopetoun's fencibles.

What distance was Johnstone when you saw him?—About that distance.

What did Johnstone say?—He said he thought serjeant Hardy would look at that paper. I took it out of his hands, and I said I had no doubt he would; I took it out of his hands, and gave it into the serjeant's hands.

Did you go any distance to give it to the serjeant?—Just about the distance of you and I.

And Johnstone was just by you?—Yes, John-

tion was just by my back when he gave it me.

Serjeant Hardy called.

[To Hardy.] Do you know that person, Hardy?—Yes.

[To Sandilands.] Is that the man you gave the paper to?

Sandilands.—Yes.

Serjeant Hardy sworn.

Mr. Anstruther.—What are you, Mr. Hardy?—A serjeant in lord Hopetoun's fencibles.

When was your regiment passing through Dalkeith?—The 12th of May last.

Did you see that man there?—Yes.

This Sandilands?—Yes.

Did he give you that paper?—No, this is not the paper [another shown him.]—This is the paper.

Did Sandilands give it you?—Yes.

Did you see whom Sandilands got it from?—No.

What said Sandilands?—He asked me to look at it; I did; and I asked him where he got it; he did not recollect the man's name; he said there were meetings of seditious people in Dalkeith, but he never went near any of them.

Where were you going to at that time?—We were on our march to England.

Your regiment had consented, and agreed to go to England at that time?—Three hundred of them.

Bartholomew O'Connell sworn.

Lord Advocate.—What regiment are you in?—The 7th regiment of fencibles.

Who commands them?—The earl of Hopetoun.

Were you in the village of Dalkeith lately?—Yes.

Was the regiment there?—Yes, part of the regiment.

What time?—I do not remember what day.

Was it two or three months ago?—Yes.

Did any body give you any printed papers there?—No, my lord; a man came up and said, is there any of you for England? He said, if you are, said he, I would advise you not to go, for you will be all sold to go abroad.

Did any body give you any printed paper to read or show it you?—No, he said if you do not believe that you are, there is a printed paper to vindicate that you are.

Did you read that paper?—No, my lord, I did not, only I saw at the foot of it there was Dundee.

What did you do with it?—He put it into his pocket, I did not take it in my hand.

Did you refuse it?—I did not refuse it, but I had not time, I was within two minutes of relieving guard, and was obliged to go.

Archibald M'Fadzean sworn.

Lord Advocate.—Speak out.

Say what regiment are you of?—The 7th Fencibles.

VOL. XXIV.

Is that lord Hopetoun's?—Yes.

Where are you at present?—At Liverpool.

Do they know the village of Dalkeith?—Yes.

Were you there on your march to England?—Yes on going to England in May last.

Had you any conversation in that place relative to your march to England?—Yes, sir, —one day as I was walking, a gentleman came up to me, and offered me a paper.

Was it printed?—Yes.

Did you read that paper?—Yes, two or three read it.

Did any body else read it?—Yes, John Geddies did; I took no thoughts about it at that time; it was signed Dundee.

Was it advising you to go to England, or dissuading you from going to England?—It told us we were all sold if we went to England, if we staid at home we should get thousands to help us.

Can you read?—No, sir, I cannot.

Who read it to you?—Another chap read it to me.

Is he here?—No, he is at Whitehaven.

John Giddies sworn.

Lord Advocate.—What regiment are you in?—lord Hopetoun's.

Do you know the town of Dalkeith?—Yes.

Where is your regiment quartered at present?—In Liverpool.

Were you in the town of Dalkeith with your regiment when it marched to England?—Yes.

When was that?—[No answer.]

Do you know Archibald M'Fadzean?—Yes.

Had you any conversation with any body in Dalkeith about your regiment going to England? Did any body ever show you a paper about it?—No.

Did any man show you a paper?—I saw a man in the street with them.

What did the man in the street do with them?—I saw him giving them out to the soldiers.

What did it mean?—I went into Archibald M'Fadzean's quarters, and I found him reading it.

Was he reading it?—Yes, and some more.

Who more?—Some of our own men.

Do you remember the purport of it?—Yes, it was advising us not to go to England, and if we stood back, we should get thousands to assist us.

Do you remember any particular expressions in it?—I remember a paragraph at the latter end.

What was it?—"Stay at home, O! Dear Brothers, be advised and stay at home."

Lord Advocate.—This is the identical paper Hardy swears he received from Sandilands, which is now to be read.—It is dated

Dundee April 12, 1794.

"Friends and Brethren;

"It is with the greatest pleasure that your countrymen are informed, that such is your



attachment and love to them, and your native country, that you manfully and firmly resolve not to leave it upon any terms, contrary to those upon which you were at first engaged. Your countrymen love you, and our hearts would be as much wounded to part with you, as yours would be to be separated from them. They well know that they are safe under the protection of their fathers, their sons, their brothers in arms, and they neither wish nor desire any other defenders. They hope and believe, that your hearts are filled with the same sentiments.

"The great mass of the people, from among whom you have been enlisted, have been represented to you as your enemies: believe not the assertion. They have been taught to consider you as foes: but they do not fear finding friends among their brethren.

"Their cause and yours is the same. They are poor, but they have honest hearts—hearts which sympathize in your cause; they look for the same friendship and the same sympathy in you.

"They rejoice to hear, that you are becoming daily more convinced of the great truth—that the law ought to be the same to the Highlander and to the Lowlander, to the rich and to the poor, and that no man can be compelled to take up arms by any authority whatsoever, unless his own inclinations prompt him to do so.

"This truth has been hitherto carefully concealed from you, but it is not the less certain. The will of your laird cannot, without your own consent, separate you from your families and friends, although many of you may have experienced the exertions of such a power, however unjust, and however contrary to law.

"We respect, and admire the principle which induces you (though necessity has compelled you to take up arms) still to persist in remaining to defend your friends at home, and not quit a country which holds pledges so dear.

"When you are gone,—Where is their defence? they may be either left without protection, or may soon see their country overrun by foreign troops, such as, in time past, have already shed the blood of your ancestors without provocation, and without remorse, and who would feel, perhaps, as little compunction in shedding theirs.

"Prepared for every deed of horror, these foreign mercenaries may violate the chastity of your wives, your sisters, and your daughters; and, when desire is satiated, cruelty may resume its place in their hearts, as experience has too well, and too fatally shown, and friends, parents, children, brothers, may be involved in one common slaughter.

"The cruel massacre of Glencoe \* cannot yet be forgotten; are there not among you, whose forefathers perished there?—their hearts, throbbing with kindness and hospi-

tility, were pierced with the daggers of their treacherous guests, and the feast prepared by the hand of unsuspecting friendship, was closed with a scene of blood! Such is the return for kindness and hospitality! Such the protection your families have to expect!!!

"How will they then look around in vain for your protecting care, when, perhaps you are fighting at a distance in a foreign land—but they hope you will not forsake them—Stay, Oh! stay, and defend your families, and your friends!

"For that purpose alone you were enlisted. They are ready to come forward for you in the vindication of your rights.

"Thousands join in the same sentiments with you, and ardently wish for your continuance among them. The circumstances which might require you to quit your country have not yet taken place. No invasion has yet happened—You cannot be compelled to go—leave not your country,—assert your independence;—your countrymen will look up to you as their protectors, and guardians, and will, in their turn, lift up their arms to protect and assist you."

*John Fairley sworn.*

*Lord Advocate.*—Where did you commonly reside?—In Broughton.

Do you know a man of the name of George Ross?—Yes, I have a little acquaintance of him.

Where did he live last spring, before you were taken into custody?—In the Cowgate, I believe.

Near the South Bridge?—Yes.

Did his house enter from the South Bridge?—Yes, it enters both from the Cowgate and South Bridge.

Do you know of any committee being held in that man's house last spring?—There was a committee of collectors which met there.

Were you a member of the British Convention?—Yes.

Of course of the Society of Friends of the People?—Yes.

Did your society send any delegates to the Committee of Collectors?—Yes.

So you were a collector?—Yes.

Do you know of any other Committee of Collectors?—The Broughton Society appointed some members to a Committee of Union, which met there.

Were you a member of that Committee of Union?—No, I was not.

Do you know of any other committee that met there beside that committee?—There was another committee appointed by that committee, but I was not a member of it.

Were you ever with that last-mentioned committee, in company with them?—Yes.

Who were the persons you saw in that committee, and whom you understood to be members of it?—I have seen Mr. Watt, Mr. Bonthron, Mr. M'Ewan, and Mr. Downie.

What is he?—I believe he is a jeweller.

\* See Vol. 13, p. 872 of this Collection.



Would you know him again if you saw him?—Yes, I think I would.

Is that him behind you there?—Yes, I think it is.

Was there any body else in that committee?—I once saw Mr. Stoke there.

Mr. Stoke, what is he?—I do not know what he was; he was a student, I believe.

Were you ever employed by that committee on any occasion?—I was twice or thrice.

In that in which the collectors were?—In the committee of collectors, it was moved, I do not remember by whom, that subscription papers should be gotten.

That subscription papers should be gotten?—The committee wanted me to get these papers, and I went and told the committee, and I got the papers, and went on one night, and told them I had got it; I was on another night there, and told them we had chosen a preses.

Who was that preses?—It was myself.

Was this the Committee of Union, or the other committee?—It was the other committee.

Did you ever hear any other name given to that Sub-committee, than what you have just now stated?—They call them a Sub-committee and a Committee of Ways and Means.

Did the Committee of Ways and Means ever employ you in any other business?—They never employed me in any other business; I do not recollect any other business.

Mr. Amstruther.—If what you said the other day be true, you will tell it over again to these gentlemen?—I was going to the West country to see a friend I had in the West country, and I heard some person saying, after I came from Airth, they had a letter for Borrowstounness; I replied I was going to Borrowstounness; he said, would I take it?

He asked if you would take a letter; who was that person?—Mr. Bonthrone; the next day I called on Mr. Watt, and told him that I had a letter to go with; that I was not going away until the afternoon: if he had any thing, he must come to the hat-makers at the Luckenbooths; I came to Watt's again, and he asked me if I had got a parcel; he said I could get it at Mr. Campbell's, the hatter, at the Luckenbooths. I had a letter from Mr. Bonthrone to Mr. Watt, and Watt gave me a letter to Mr. Downie, and I got from Mr. Downie the parcel and took my parcel with me.

Was the parcel tied up?—It was packed up.

Did you look what was in the parcel when you went in Campbell's shop?—No, not till I came to the Queen's Ferry.

What did you find?—There were some letters to the societies, and the instructions of the committee.

That Mr. Watt directed you to go to Mr. Campbell, the hatter, and you would find the letter, and directions what to do with it?—I would know what to do with it.

Did you go to Stirling and Falkirk?—Yes.

What were the instructions?—He desired me to go to Mr. Downie, and send money to them, and the instructions were, to correspond with Mr. Downie, and also to inquire the number of patriots in each place, and to send money to Downie.

Was any thing else in the instructions?—There was something about a plan, but I do not recollect the exact words.

Recollect yourself, what was it?—A plan about something.

You talk about papers and regulations for the society, and circular letters, were they printed or written?—Printed.

Was the commission printed?—No, it was in writing.

Were there seals to it?—No.

You said there was something about a plan; had you any conversation with Watt, or Downie, or Stoke about a plan?—I never had any conversation with Downie or Stoke, but Watt spoke to me.

What was it?—Something about imprisoning the magistrates, and seizing the Bank and public offices.

And what else?—And those most active against the people, or something of that sort.

What was to happen to them?—They were to be imprisoned.

Was there any thing else in it?—They spoke something about sending couriers to the country, to tell what was done.

What was done?—Why about seizing them things.

Those persons you mean?—Both persons and things.

Was there any thing about that plan in the paper of instructions?—It did not say what plan.

What did you understand by that word in the paper. What plan did you think it was, upon your oath?—It might be that—I cannot say.

You went to the Queen's Ferry?—Yes.

Where next?—To Stirling.

Did you show the committee's instructions to any body at the Queen's Ferry?—Yes.

Where did that friend live that you were going to see?—It was a sister of mine who lived in service at Airth, on the other side of the water.

Did you go to Stirling?—Yes.

Were you acquainted with any body in Stirling?—I called upon Dr. Forrest; I heard of him, but I had no acquaintance with him.

From whom did you hear of him?—I have heard of him different times at Edinburgh, as being a Friend of the People at Stirling.

Did you go to Airth?—Yes.

Were you at Borrowstounness?—I did go to Borrowstounness as I came back: I went to see the place; I did not leave any thing there.

Did you go to see any body there?—I had no letters for Borrowstounness, I had no directions to open it there.

You never saw doctor Forrest before that,

you heard of him as a friend of freedom;—Yes.

From whom did you ever hear it?—I cannot say.

Did you ever hear of him in the Committee of Ways and Means?—No, I cannot say.

Did you see doctor Forrest?—Yes, I did.

And what passed between you and the doctor. Now, sir, you said, that you would tell him the news of Edinburgh, and he would tell you the news of Stirling?—Yes.

Now what was the news of Edinburgh?—I do not recollect, but I showed him the paper of regulations, and the circular letter I brought with me, and the paper of instructions of the committee.

Now, did you ask the doctor to introduce you to any more of the friends of freedom there?—I believe I did,—there were two or three came to his house.

Do you remember the names of them?—I think there was a man of the name of Thompson.

Was there any particular conversation passed between you and these friends of doctor Forrest,—tell the jury what the subject of your conversation was?—I cannot tell what the subject was; I had a copy; I would tell them that they were about to make pikes in Edinburgh, or something of that kind.

You rather think you did that?—Yes, I think I did.

What did those gentlemen say to you when they heard about making pikes at Edinburgh?—They told me that the society at Stirling was not so numerous as it once was; but what they said when I told them about the pikes I do not recollect.

Did they say any thing else about the state of the friends at Stirling?—I rather think they said they were willing to contribute money, but they could not do any thing else.

What else did you understand by this answer?—I remember they were saying that; I understood that they meant they were not numerous, there were many of them there.

Is that what you understood by the word else?—Yes, they said we could expect no other support but money.

Were they happy when they heard pikes were preparing, or were they sorry?—They did not say whether they were happy or sorry.

Did they approve or disapprove?—No, they did not.

They said nothing about it?—Not that I recollect.

How long did you stay with doctor Forrest after telling him about the pikes?—Did you describe the kind of pikes to Mr. Forrest?—I think I drew a draught of one.

You drew a draught of one—Was it like them on the table?—Yes.

Where had you seen those before?—I had never seen any before; I had heard them describe it.

Who described it to you?—I have heard

them describe it. I recollect I had drawn a draught of some before this; and gave it to Watt.

Where was this? at Edinburgh, or Broughton?—I cannot say where I drew the draught, but I gave it to Mr. Watt; I sketched one on a slate, because Mr. Watt desired me; then he said I would do it upon a bit of paper, and I did do it.

Would you know that paper again if you saw it: look at that?—I think that is it.

Who was it who described it to you?—I had seen them of that sort before.

Where?—I think the serjeant's halberts are something like that.

Did Watt tell you for what purpose he wanted those things?—He said the pikes were intended for self-defence.

You drew this to doctor Forrest at Stirling?—Yes.

You do not recollect whether he was glad or sorry, or approved or disapproved?—No.

Where did you go the next day?—To St. Ninians.

Were you acquainted with any body there?—No.

Whom did you see there?—Mr. McCross, and Mr. Brown.

What is McCross?—A minister of relief.

What is Brown?—A writer.

Did you know those before?—No.

How came you to call upon them? Did you show them your instructions, or did you leave them the printed papers?—Yes.

Did you tell them any thing about the pikes?—No, I do not think I did.

Where did you go then?—To Kilsyth.

Whom did you see there?—Mr. Anderson, and Mr. Yule; Anderson is a minister, and Mr. Yule is a joiner.

Where did you see them?—I took them to Mr. Anderson, and he took them to Mr. Yule.

Did you leave the printed papers with them?—Yes.

Where next?—To Campsie. Mr. Yule went with me—I do not know to whom.

Did you leave papers there?—Yes.

Did you show them the pike?—I do not recollect. I went to Kirkintulloch; Thompson went with me to Kirkintulloch.

Did you show him your bundle?—Yes.

Where then?—Then I went to Glasgow.

Where did you call there?—On Mr. Sinclair, a reed-maker.

Was Sinclair a member of the convention?—I do not know.

Did he take you under his protection?—He was not at home when I went there, and I went into the reading room.

What is the reading-room?—It is where pamphlets and newspapers are read.

Did you see any body in the reading-room you never saw before?—I dare say I saw several; I came back with Mr. Sinclair; I gave Mr. Sinclair a copy.

Were any of the persons whose faces you recognized in the reading-room; were any of



them members of the British Convention?—I did not know them, there were none that I knew; I said there were none of their faces that I knew.

Did you go any farther to the west?—I went to Paisley.

Whom did you call on there?—Mr. Hastie.

Did you leave any papers?—Yes.

Did you go farther west?—No.

Then you came home?—Yes.

Where did you go first?—First to my father's, and then to the Committee at Ross's.

Was it the Committee of Ways and Means, or the Sub-committee?—Some call it one way, and some the other,—it was committee night.

Did you find any members of the committee there?—There was Watt, M'Ewan, Downie.

Did you state any thing to the committee with respect to the places where you had been, or with respect to the nature of your journey?—I do not remember the particulars of what I said.

I ask you in general?—I told them that the friends were in general hearty.

What did the committee say to that, were they happy or sorry, did they appear to approve?—I did not mind either.

Was Downie there? Did you give them back any of their papers?—No, I did not.

Did you give them back?—I gave them back some days afterwards.

Did you take any notes?—I took down some names of the people I called at as I went along.

What became of that paper?—I gave that to Mr. Watt too.

Did you read that, or show it to the committee that night?—No, I believe not; I do not recollect.

Did you communicate any further particulars to the committee?—I am sure I cannot say, except telling them they were hearty.

Did you pay the expenses of that journey out of your own earnings, or out of your own pocket?—No, I did not.

Who defrayed the expenses.—I got a letter from Mr. Bonthron to Mr. Watt, and he gave me a line to Downie, and Downie gave me 36s.

Did you spend all the money in your journey?—No, I spent 15s. of it.

What did you do with the rest.—I gave it to the committee, and they gave it me back again.

Was Downie there?—I believe he was.

Whose money was it, Mr. Fairley?—I suppose it was the committee's.

Who was the treasurer of that committee?—I have heard say Mr. Downie was, but I was not at the appointment of the treasurer.

How long did you stay with your sister at Ayr?—I staid there all the afternoon.

Did you stay there all night?—No, I did not.

What time did you get there?—I got there about mid-day.

What time did you leave it?—I fancy it might be about 6 o'clock.

What made you not come back again, after you had seen your sister?—I wanted to see the country.

How came you not to go and see the county of Fife, as well as Lanarkshire?—I went to see my sister.

Stirling is a little farther off than your sister's—Yes it is.

How came you to go a little farther after you had seen your sister?—As I had the things, I just went along with them.

But why did not you go along with them to Fife as well as to Stirlingshire?—I was near Fife.

Were not you as near to Glasgow?—I had no particular reason for it, except it was to go and see them.

Is it a common thing to take a long journey when you go to see your sister?—you took a journey to Kilsyth, Kirkintilloch, Glasgow, and Paisley?—I cannot say.

How came this committee to pay you for all this journey?—Because there were subscriptions going on for those that suffered lately, and I told them to send money to the committee.

Whose business was this you were going about when you went this journey,—was it your own business, or the committee's?—It was the committee's business.

How did you know the committee had any business at Glasgow?—By my commission; I was not confined; I had liberty to go where I liked—I might go to Borrowstounness, and Glasgow.

The instructions said, go to Falkirk, Borrowstounness and Stirling?—Yes.

Then how came you to explain the S—g, and the other letters with blanks, to me, that it meant the three other places?—Because there were societies there.

What sort of societies?—The Friends of the People.

Then you thought yourself at liberty to go to any other place where there were Friends of the People?—Yes.

It was but reasonable, to be sure, the instructors should pay you; tell me how you got the commission, and what was in it?—It was just telling me to call at the societies.

What did it say?—It said the committee authorized me to call at those places.

You said you found in Stirling they would give you support by money, but would not give you any thing else, they were not ready for any thing else?—They would give support by money, but nae other way.

What do you mean by nae other way?—That they were not numerous, and that—

But a few people could give you support; it might not be very good support—they might give you support by something else besides money, what did you mean by something else?—I do not know; I had just asked them.



Were your instructions, as well as your commission from the committee?—I think it mentioned about the committee; I cannot mention whether it was the committee or not.

Recollect whether your instructions mention it?—They do mention it.

They mention something about a plan?—O, aye.

What did it mention about that plan?—It mentioned something about that plan.

Was it a little plan?—I have answered that question to the lord Advocate.

Was it a great plan, or a grand plan, or little plan, or what did they call it?—No particular name—they might speak of it, I believe.

What was that plan to do?—It did not say what it was to do.

Mr. Anstruther.—He has said he understood the plan to be the same plan that is mentioned by Watt.

What was the plan to do?—I can tell you what Mr. Watt said it was to do.

What did your instructions tell you? Did it say it was near finished, or that it was far from being finished?—I think the word finished was in it.

Did it say any thing like it was far, or not far from being finished?—I cannot give the express words.

Give me the same?—It spoke something about that plan.

About what plan did it speak?—It did not mention the plan: I said I supposed it might be that.

Now, did it say that plan was to be attended with success, or want of success?—I cannot say things—I did not mind.

Whom were you to give your instructions to when you returned?—The clerk of the Committee of Ways and Means when I came back.

I think you said you were permanent preses of the collectors?—Yes.

What were they to do?—To collect money and sentiments.

Were they to do any thing else?—To see who were determined to support the burthen in the cause of universal suffrage, and annual parliaments.

To whom did your instructions tell you, you were to send the money?—The instructions said the money was to be returned to Mr. Downie.

Did you ever hear any thing about arming?—Mr. Watt and I spoke about pikes two or three times.

Well, now, what were the collectors to do with those pikes, or had they any thing to do with them?—Mr. Watt once showed me some of them, and said he would give me some of them to shew to the collectors.

Did you take them?—No, I did not.

Why did you not take them?—I did not want to take them down to the collectors.

Why did you not like to take them?—Because none of the collectors had said they them.

As Watt said, take them down to the collectors, why did not you take them?—If I had taken them down to the collectors, they would have been blaming me for distributing them.

You supped with Dr. Forrest that night?—Yes.

You staid with him after the company came away?—I recollect I told Dr. Forrest first something about that plan.

Now, what did you tell Dr. Forrest?—I told him what I told you.

Did you tell him such a plan existed?—I said I had heard it; I had never heard it from any body in the committee but Mr. Watt.

Look at that.

Court.—What is that paper?

Mr. Anstruther.—He has read this, "Stirling,—support by money, courage not great, support as yet not certain."

Court.—What paper is that?—A list of names I took with me.

What for?—For the purpose of corresponding.

Whom were you to correspond with?—With the Committee of Ways and Means.

Were the Committee of Ways and Means to correspond with all these people?—I cannot say whether they would or no, but they had the particular power.

Mr. Anstruther.—Why did you leave a blank there in the first line,—does S—g mean Stirling?—I left a blank.

Because what?—I had a list of the names, I did not expect any body to see it, but I did it just for fear any body should see it.

Does c—ge mean courage? and why did you leave a blank there? you had not courage to fill it up perhaps?—Yes, but I wanted nobody to read it but myself.

I thought you said you made this up for the use of the committee?—Well, but I had it to read:—the committee did not desire me to write that about Stirling; I gave it in to Mr. Watt.

Did you give it to him as one of the committee?—I gave it to him as one of the committee.

Mr. Cullen.—When did you give it to Mr. Watt?—Some days after I came home, I gave him my instructions and commission sometime after I came home.

Mr. Anstruther.—You were ordered to deliver them to the committee?—Yes.

Did you inform the committee of what you had done in your journey?—I told them that I had collected at such and such places, and they were in general in good spirits.

You did not say that about Stirling surely?—I did not say that about Stirling: I might say, at Stirling the society was not numerous.

#### Cross-examination.

Mr. Clerk.—He cannot say whether the committee knew any thing about the instructions, yea or nay.

What did you say when you went in?—I



had been in once or twice before, and I just told them what I have said already.

*Lord President.*—I have taken down what he said about these instructions, in this manner, that his instructions were from the committee, and that he was to return them to the clerk of the committee.

*Mr. Callen.*—As I understand it, the instructions were to be from the committee, they were so expressed, but not given by the committee; they were therefore no farther from the committee than Mr. Watt gave them to him as from the committee.

*Mr. Clerk.*—He could not swear whether the committee knew any thing about it.

[Paper read].

"S—g, support by money—c—ge not great—s—pt as yet not certain."

"Address of a citizen in Alloa, James Haig, merchant.

"Kincardine, George Miller, shipmaster.

"Alloa, Robert Morrison, senior, weaver.

"Crieff, James McIlveade, merchant.

"Falkirk, John Heugh, merchant, corn-monger.

"St. Ninians, George Brown, writer.

"Ditto, Rev. Mr. Cross.

"Linlithgow, Mr. Gilson jun., merchant.

"Burrowstonness, William Baird, ditto.

"Buckhive, Walter McGibbon, merchant.

"Inverkeithing, John Grieve, surgeon.—

*Sir John Henderson.\**

"Kilross, William Hutchinson, esq., of Annathrough.

"Kirkintulloch, Henry Freeland, weaver.

"Bathgate,—informed Linlithgow.

"Kincaid Printfield, John Thompson.

"Kilsyth, Mr. Charles Yule.

"Paisley, Mr. John Heming.

"Kilmarnock, Mr. Muir, jun., merchant.

"Levenside, James Gardner, smith, near Banters.

"John McArthur, shoemaker, new Meeting-house, Dumbarton.

"Roderick Gordon, engraver, near Bank-till.

\* The publisher is informed, that this witness, Fairley, having been lately summoned at Sir John Henderson's instance, to appear before the sheriff of Edinburgh, and being duly sworn and interrogated, did in substance depose, "That he had no acquaintance with Sir John Henderson: that he even did not know him by sight: that he had put Sir John's name as well as Mr. Grieve's in this list, on no better authority than the suggestion of some person or other, who had told him they were friends to reform: that he could not recollect the person's name who told him so; and, finally, that such was the sole reason or cause which he had for inserting these names in his list." The publisher is further informed, that this deposition is put on record in the Register of prohibitive writs at Edinburgh. *Orig. Ed.*

"Linlithgow, Adam Dawson, certain friend, but not proper object of correspondence.

"Mid-Calder, John Hardie, or Thomas Tweedal.—Shotts, William Morton, taylor.

"Hamilton, John McLawn, James Hamilton.

"Strathaven, James Wilson.

"Whitburn, George Weddel, merchant.

"Dervil, John Cleland.

"Glasgow reading room.—Thomas Corbet wants a few cheap books or pamphlets.

"Mrs. Galloway—high street Glasgow—wants a dozen of Loves of Liberty."

Is that one of the papers that were in your parcel?—Yes, that is one of the papers.

[Paper read].

"Fellow-citizens:—At a time when power seems to be making such rapid strides among us, while the friends of freedom are persecuted, and hunted down on every side, and the genuine principles of the constitution repeatedly violated, by those who, at the time they are professing their attachment to it are aiming the secret blow which undermines it, the friends of peace and reform in Edinburgh, call upon their brethren throughout the kingdom:—We call upon you to warn you of your danger: We would remind you of the present melancholy state of affairs; our commerce diminished, our manufacturers drooping, the industrious poor wanting bread, and the mingled cries of the widow and orphan assailing the ears of heaven.—These, are only a part of the cruel effects of this most disastrous and bloody war, the end of which is wrapped up in a gloomy obscurity which has scarcely one ray of hope to penetrate or illumine.

"In the mean time, we behold armed associations forming in different parts of the country.—We see the partial selection of citizens, who are entrusted with arms, and shudder in contemplating what may be the motive of this alarming and novel prudence.

"Under these circumstances, what is our resource? Citizens, there is but one thing that can rescue us, a complete reform in parliament. Let us not be awed into a servile submission by any illegal artifices; let us not sink before the blast of oppression; but let us unite firmer than ever, and the number of voices, that call for a redress of our grievances shall yet be heard. But never let us relinquish this great work.

"Remember, that till we are fairly represented, no check can ever be opposed to the strides of power, but we may be crushed beneath its weight, like a worm beneath the foot of the passenger.

"In the mean time, we send you a few rules, which are drawn up for the use of our own societies; we recommend them to you, and hope they will be equally serviceable. A Committee of Union is appointed here, to express the united wishes of the several societies; and a sub-committee, which is called



the Committee of Ways and Means and as treasurers for the united societies, and as a centre of union for all friends in Scotland. Through their medium, directions and instructions will be given. The money put into their hands shall be accounted for, and disbursed in such a way as shall be most calculated to promote our great cause. If, therefore, you have any sums collected, beyond what your immediate exigencies require, or if you can collect any among your friends, though they should not be members of societies, you are requested to remit the same to Mr. Edinburgh, who is appointed to receive the several sums for the committee.

"We would also wish to be informed of the number of friends which you have, on whose patriotism you can rely with the most implicit confidence, and who, you are sure, will spare no exertion whatever in promoting the great cause in which we are engaged.

"We would thank you to communicate the best method of making our mutual sentiments known to each other, and the person to whom our letters may be addressed with the greatest safety—Direct your letters, as above, for Mr. : we beg for an answer with all convenient speed, and remain, your brethren and fellow-citizens, the Committee of W. and M.

*Lord Advocate.*—There are only one or two paragraphs we mean to trouble the Court with.

*Witness.*—There are some blanks in that paper that were not filled up in the paper that I took.

*Mr. Anstruther.*—Whom did your instructions desire the money to be sent to?—My instructions desired the money to be sent to Mr. Downie?—The blanks were not filled up in the instructions.

Is that one of the papers in your parcel?—I think so.

[Paper read.]

#### FUNDAMENTAL PRINCIPLES OF THE SOCIETIES.

"1st, The Com. of U. is composed of persons appointed by the people, to look after their interests, and are consequently amenable for their conduct to the people; therefore the people have the power of deposing, by means of petition to the president of the Com. of U., and by him reported to the societies, for misconduct in any of their representatives.

"2d, As representatives of the Com. of U. are invested with every power their constituents can claim, the will of the constituent, at the appointment of his representative, is, that he watch over his interest, as a member of the community. But the will of the constituent is the constituent himself; therefore, if a representative is attacked in the discharge of his duty; his constituents are bound by nature, reason, and honour, to defend him."

*Lord Advocate.*—Go to the collectors. [Reads.]

"1st, Each society shall appoint one or more persons, the most active and intelligent, to be collectors of money, and each of these collectors are to have the superintendency of 15 or 20 persons, whom they are enjoined to visit, as oft as their time may allow: what money they may collect is to be delivered to the treasurer of their different societies every week.

"2d, Such collectors are permanent, unless disqualified by inattention, or otherwise; they are to meet with the Com. of W. and M. to report progress once every three weeks.

#### "5th, Of the Extent of Delegation.

"1st, Election of delegates to the Com. of U. takes place on the first Thursday of February, May, August, and November, annually.

"2d, Each society shall send a delegate for every 12 members, to the Committee of U. with a letter signed by the president and the secretary for the time being. How soon an addition of 12 is made to any society, that society is entitled to send an additional delegate. But no society, however numerous, can send more than three representatives.

"3d, The powers of such representatives shall continue only for 3 months, at which period they must either be re-elected, or others chosen in their room.

#### "XVI.

"1st, The societies shall adopt such regulations, and adhere to such instructions as the Com. of W. and M. may think proper to issue, after being sanctioned by the Com. of U.

"2d, No member shall introduce religious topics into debate, no motion for prayers to be said, either at the gathering or dismission of the societies; because every thing that tends to strife and division must be avoided.

#### "Laws relative to the Com. of U.

"1st, The Com. of U. shall meet once a week, and elect a president every meeting, according as their names stand in the roll; no member is to absent himself, without assigning satisfactory reasons.

"2d, The secretary shall continue in office 3 months, during which period he has the keeping of the books.

"3d, It shall be eligible in any person, properly delegated, from any part of the three kingdoms, to be a member of this committee; but no foreigner can be admitted.

"4th, No delegate shall send another in his room, when he is prevented from attending himself.

"5th, Both the president and secretary are subject to the same laws that regard the president and secretary of societies.

"6th, None is allowed to speak in the discussion of any question but once, unless to explain.



"7th, The roll is to be read by the secretary at every meeting, so soon as the president takes the chair, which he must do precisely at eight o'clock, after which, the proceedings of the preceding meeting are read, and the order of the day called.

"8th, The Com. of W. M. must report progress once every week.

"9th, No member is allowed to accuse, or make any injurious reflections on another, neither in the Com. of U. nor in the societies, without first submitting the grounds of his accusation to the Com. of Ways and M.; and say to report to the Com. of U. if, upon examination, they see sufficient reasons assigned.

"10th, The name of the accuser is not to be made public, unless the Com. of W. and M. consider the grounds of accusation worthy of the attention of the Com. of U.

"11th, Disinterestedness, condescension, and affection to one another, must prevail, not only amongst the members of the Com. of U. but amongst all the societies.

"12th, Heroism, and magnanimity of soul, must be cultivated, and studied, and every one must endeavour, in a prudent manner, to be who will be most instrumental in forwarding the glorious cause; for independent and enlarged minds, give honour and preference only to merit."

*\* Laws relative to the Com. of W. and M.*

"1st, The Committee of Ways and Means is permanent, and the members of it have the power of expelling any one, or more of its members, for misconduct and inattention.

"2nd, They have the nomination to any vacancy in their own body; also a discretionary power to meet where and when they please.

"3rd, It shall consist of no more than seven, nor of less than four persons.

"4th, The president and secretary of the Com. of U. shall examine the money transactions of the Com. of W. and M. once every four weeks."

No cross-examination.

Dr. Forrest sworn.

*Lord Advocate.*—Do you know a man of the name of John Fairley?—Yes.

When did you see him first?—Some time in May last.

Where did you see him?—At Stirling.

Had you ever known that man before?—No, my lord.

How came he to introduce himself to you?—He said a Thomas Bell desired him to call upon him.

You were a member of the society?—Yes.

And where did you meet?—In my house.

And you asked some of the members of the society to join?—Yes.

I wish you would just tell your story to the jury that are entitled to hear it; on that occasion did Fairley communicate to you any

VOL. XXIV.

particular business or circumstances?—He told us he was sent by the committee in Edinburgh, to endeavour to procure money for the support of Mrs. Skirving, and some other friends of reform, and to know what were our sentiments about reform.

To know what were your sentiments?—He showed us a written paper to that purport: I cannot recollect that paper at present to be nothing, but what I recollected before, that there were to be collectors for 14 or 15, to collect the opinion of that 14, to know their sentiments, and to procure the money, I understand, and there was a part of the instructions they mentioned, they were to be provided with—and a blank followed that; to be provided with———blank.

Now, I ask, what did you understand by that provided with, and that blank? What did you understand at the time?—If I might guess or conjecture,—being armed.

Did you or any person give any answer at the time, or take any notice of those instructions to that effect?—I think I said, he should be cautious how he conducted himself, and what he said; for our parts, we had no thoughts of proceeding farther; in what we had done, we had expressed our thoughts to the public, or something to that purpose.

You say you concluded the blank meant arms;—now, I ask you, was there any other circumstance which passed between you and this man Fairley, relative to this conjecture of yours, which tended to confirm or disprove that conjecture?—I do not remember particularly, but something was mentioned of an expected invasion by the French, and he took a piece of paper and a pencil, and drew a figure resembling a halberd.

Do you see any thing upon the table like it?—Yes, my lord, it was something like that.

He asked how that would answer for defence?—Yes.

Did he say any thing more upon that subject?—Yes, I do not recollect what followed upon that; there was nothing that I recollect.

Do you recollect any thing else of his giving you any other information with respect to what was going on at Edinburgh?—He mentioned, I think, that he knew a person that could provide such, and I think he mentioned the number, but I cannot put a name upon it.

Did he mention where this person resided that was to furnish these things?—No, I do not recollect, but the idea struck me.

Did this pass after your friends left you, or were with you?—To the best of my knowledge while they were there.

Did he stay after they left you?—He staid and slept there all night.

Was there any thing else that passed between you and him, that struck you at the time as extraordinary as to what was to be done in Edinburgh?—There was something said about the collectors.

Did that paper of instructions mention any thing with respect to any plan or scheme

I



which struck you?—Unless it was those collectors that were to attend, and to know their sentiments—

What besides that?—I cannot recollect just now.

Was there any thing said by Fairley you thought it your duty to check him in?—I do not remember.

Was there any thing about violent measures about to be proposed in Edinburgh?—I think he said, that some people in Edinburgh, would probably repent of their conduct.

What people? Was it the Friends of the People?—No, I did not suppose that.

Who did you suppose them?—I supposed it was their opponents.

He left you some printed papers?—Yes.

What became of those printed papers?—I gave, to the best of my knowledge, a copy of a letter of regulations and rules to and my friends burnt the rest.

When did they burn the rest? was it before or since the warrant sent for you to Stirling?—Yes, in consequence of that warrant.

Mr. *Austruther*.—Now, before you go, only do recollect yourself, and tell me whether there was no conversation between you and Fairley, after the company went away, more than what you have stated?—No, I do not recollect; it was very near midnight, and I went to bed very soon.

Now, I only ask you, do you swear that you recollect no more of the conversation with Fairley, than you have now stated?—I can very safely do it at present; several things may have escaped me, that, by helping my recollection, I might answer.

*Joseph Gurnall* sworn.

In what employment are you?—A king's messenger.

Pray do you know a Thomas Hardy in London?—Yes, my lord.

Were you ever employed in searching his house?—Yes, in consequence of a warrant from the secretary of state, jointly with Mr. Lauzun, I was to search his house, and seize his papers.

Now, sir, did you see any of Hardy's papers?—In the bureau of Hardy's house, I saw Hardy's papers. I found that letter in his bureau.

When?—In the morning of the 12th of May.

*Alexander Mitchell* sworn.

*Lord Advocate*.—Mr. Mitchell, where do you commonly live?—In Stirling.

Were you living there in the month of April last?—Yes, I was.

Was there any society of the Friends of the People there?—Yes, I was a member of it.

Were you the secretary of it?—I never acted as a secretary of that properly, but as secretary of the United Societies.

What societies were united?—Kilmarnock,

Gawstone, Newmills, Darwell, and Strathaven.

Do you know a man of the name of Thomas Hardy?—He is designed a shoemaker.

Has he any other situation?—He is secretary of a Corresponding Society in London.

Did you, or your society, or any of these societies, receive in April last, or in the course of this year, any letter from this Mr. Hardy?—Yes, a letter for the society in Strathaven.

What was the purport of that letter?—A principal part of it was, announcing a proposal for another British Convention.

Would you know the letter if you saw it? is that like the letter?—Yes, I think it bears every resemblance of that letter.

Now, sir, did your societies do any thing in consequence of that letter to your knowledge?—Yes, there was a meeting of the United societies, as I mentioned before, at Darwell, on the receipt of that letter.

What did you do?—The consideration was, if it was proper to send a delegate to that convention, and it was agreed there should be one sent.

Did that society do any thing else in consequence of that?—There was one appointed to be ready to be sent against the time it should be called.

Did they write so to Hardy, and give him any information of it?—Yes, they did.

Did they write them?—Yes.

Who wrote the answer?—It went in my name.

Did you write it?—Yes.

Look at that letter, and see if you wrote that answer to Hardy; is that your handwriting?—Yes I recognize it to be the same from all I can judge.

What was the name of the gentleman you chose to be delegate of the society that was to be held in readiness?—I do not conceive it would be of any direct use to the Court, or I would mention it; it might be a cause of trouble to the gentleman.

You are bound to mention it. What was his name?—James Wilson of Strathaven.

*Lord Advocate*.—This letter is found by Gurnall, 12th May last, in this gentleman's hand-writing. This letter is of the date that Mr. Gurnall speaks to.

[Reads.]

"Fellow citizens;—The society at Strathaven received your circular letter some time ago, respecting another British Convention to be held in England, and finding it would be inconvenient for them to send a delegate for themselves alone, the cause being much suppressed here by prosecutions, which we are subjected to from the petty sheriffs in our neighbourhood, we have united ourselves with the societies in Kilmarnock, Galston, Newmills, and Derwall. Accordingly, a meeting of delegates from these societies, and that in Strathaven, was convened on the first current, when the measures met with the fullest ap-

probation, and a delegate was elected for the general convention, and a secret committee appointed to conduct the business. You will therefore forward your orders to us, when, and where the convention is to meet, with any other instructions or information you may judge necessary. We shall instruct our delegates respecting the number and strength of our societies, and are happy to fraternize with you in any thing that may tend to promote the general good.—We remain yours, in the cause of liberty, for the United Societies as above,

"ALEX. MITCHELL, sec.

"*Strathaven, 9th April, 1794.*"

Sent per post, and addressed thus,

"Mr. T. Hardy, shoemaker, No. 9, Piccadilly London."

Walter Miller sworn.

Lord Advocate.—You live in Perth, do not you?—Yes.

Did you ever hear or know of a man called Thomas Hardy?—I have heard of such a man.

Did you ever receive any letters from him?—Never from him directly, but I got a circular printed letter from him by way of Edinburgh.

Was it long before the sheriff of Perth took you up, and asked some questions?—It was not long, I cannot say the time.

Look at that letter?—Yes.

Look at it, and see if it is the same?—I have no occasion to look at it any more, when I am satisfied.

Be so good to look at that, and see if you ever saw that before?—Yes, I saw that too.

That letter is signed David Downie?—Yes.

Is that address to you?—Yes, certainly I received it, and it was seized in my possession and my initials are on the back of it.

You see in the end of this letter, "we propose to send one published by the Courier, will be pleased to send us a parcel with your address."

What sort of address was it?—It was pamphlets.

What sort of pamphlets?—Political Pamphlets, to be sure.

What sort of pamphlets?—I do not know; they were all small pamphlets.

Was there a printed circular letter, a small piece of paper came along with this parcel?—I did receive a circular letter, whether it came at the same time I do not recollect.

What sort of a circular letter was it?—It was a circular letter from what is called the Committee of Ways and Means here.

Do you remember the purport of that letter?—The purport of it was, to call on the people to prosecute their endeavours towards a reform, and that was a thing highly proper and necessary.

Now, that circular letter from Hardy, did he take any steps in consequence of it?—Yes.

What were those steps?—The committee considered it.

And what did they consider?—Why, if it was a measure resolved upon by the other parties of the kingdom, they were to adhere to it.

What do they mean by that?—The purport of it was, they were to send delegates upon due determination, which they could not tell without consideration afterwards.

They were to send delegates to this convention?—Yes.

Look at that letter, and see if it is like that?—I could not say really; there was a copy of that letter seized in Perth; I know that it was directed to me.

What was the size of it?—I do not recollect the size.

Mr. Clerk.—Do you remember the time when Mr. Watt and Mr. Downie were seized and imprisoned?—I may remember that very well; a few days after that I was apprehended myself, and have lain in gaol ever since.

Had you any notice from Mr. Watt, or Mr. Downie of such a proposal as that?—I am very certain there was no proposal of that kind. I was a member of all the committees at that time existing in Perth.

And you never heard a single word about arms,—3 or 4,000?—No never till yesterday night, when I saw it in the newspaper.

You said you were a member of the society;—Yes, certainly so.

Are you a member yet?—I cannot be a member while I am in prison.

Did not you cease to be a member of that committee?—Yes.

Why?—For some difference in that society.

What was it?—I suppose it is not connected with this cause.

Court.—We cannot tell till we hear it, it may be material or not.—If the Court will oblige me, I will; but I will not enter into business abstract from the cause; it is not connected with the cause.

Witness.—My lords, if you have no more occasion for me on this trial, I think I have a right to my liberty now.

Lord Advocate.—The witness is taken up and imprisoned under a warrant for treasonable practices, by an act of last sessions of parliament, suspending the act of 1701. It is not in the power of your lordship to liberate him, without an order signed by 6 at least of the privy council.

Witness.—I beg leave to be heard a few words—It is in my knowledge that I was taken up in a most illegal manner, by a warrant from the sheriff: I have been detained here three months under extraordinary circumstances, and have received the worst of treatment; last night when I went from that bar, I mentioned to your lordship my appearing under particular circumstances, and being so long a prisoner, and having met with such severe treatment, it might be thought I was come here at the expence of this panel's life,



to save my own self. I was determined to refuse giving evidence, and stated my objection; my lord advocate told me I was not to be brought to trial. I know I am entitled to my liberty.

*Lord President.*—What you have required of the Court we cannot do; there must be an application to the privy council, and upon that application, his majesty's advocate may be heard against it. This court can do nothing in the business one way or another. The law is open to you, if you have been oppressed. This is not the way it can be done; the Court has nothing to do with it in this shape.

*Witness.*—I ask one question; is it not the stated law of the country, that when a person is once admitted a witness, he is free from that criminal charge; can I be freed from all criminality?

*Lord President.*—Apply to your counsel for advice. All this is quite irregular. The Court cannot hold any more conversation with you upon that subject.

*Lord Advocate.*—We have done for the prosecution.

*Mr. Cullen.*—I wish to trouble the lord advocate to explain something concerning a transaction that passed between him and Mr. Watt; I wish the Jury may see what the description and character of Mr. Watt was.

*Mr. Anstruther.*—I am totally at a loss to understand how the character of Mr. Watt can be made evidence on Mr. Downie's trial, but still I have not the smallest objection to your examining the lord advocate.

*Mr. Cullen.*—I wish your lordship to give an account of the transactions and communications your lordship had with Mr. Watt, regarding the subject of intended riots, or with regard to any thing of the like kind?

*Lord Advocate.*—In October 1793, Mr. Secretary Dundas was in the country; at that time there was a very general alarm, it was immediately before the parliament was called; and the militia were called out upon rumours of intended riots, and various disturbances in different parts of the country. Mr. Dundas had several conversations with me, the solicitor-general, and with Mr. Pringle, the sheriff, and he mentioned that a person had wrote to him some short time before, stating to him that there was a certain number of people associated in Edinburgh, among whom a dangerous conspiracy was going forward; Mr. Dundas, therefore, desired me to inquire about this man, to see what kind of person he was; Mr. Pringle, the sheriff, made the inquiry, and I remember some short time after, about the beginning of November, when I was in the country, Mr. Pringle told me he had made enquiry, I believe of Mr. Balfour the bookseller. The result of our inquiry was such, we thought we could confide in him so far as to hold conversations with him on the subject. When I came to town in November, he sometimes came to my house in George's

square, and mentioned some things that were going on, and gave me the names of certain individuals. He likewise went to the North of Scotland, and wrote from Dundee and Forfar, stating the situation of that part of the country. When I saw him he gave me some accounts, which he said he had received during his journey, particularly some he had received in Fifeshire, or Forfar, about a party of soldiers from Chatham, whom he represented as having been seduced from their duty. This appeared to me material. He said those soldiers were at Perth, and after some correspondence, they were found there; lord Adam Gordon ordered them to come to Edinburgh; when I was informed they were arrived, I went down to the Abbey, and examined them all separately, in lord Adam's presence; and his lordship's opinion, and mine was, that the information given by Watt respecting them was not founded. The soldiers, at least, denied every thing which had been imputed to them, by the persons from whom Watt said he had received the information, and it rested on the credit to be given to the opposite accounts. There the matter dropped, and I gave it no more attention. He came afterwards occasionally during the winter, and communicated to me several particulars of the proceedings of those clubs and societies, which were then meeting in Edinburgh; some of these persons were then tried before the court of justiciary.

It appeared to me, that the persons I had heard of that composed those clubs were, a number of them, in a very low situation in life; and there was clearly more money going amongst them than could, as it appeared to me, spring from their own labour; I suspected it might come from London, or perhaps from France, and I desired him to inquire particularly into that circumstance. Some time after this, he wrote to me in London, that one or two persons knew something material, which they offered to divulge, provided he (Watt) could give them a large sum of money about a thousand pounds, or some such large sum of money. I wrote him in reply, that I could not comply with such a proposition, but I afterwards paid him 30*l.*, as he said he had accepted a bill in favour of one of those men for that sum. I wrote to my clerk to pay it, and it was paid accordingly. In the month of May, or in the course of the summer, he wrote to me in regard to some provision for himself, which did not succeed; and so far as I can charge my own memory with it, I never saw or heard from him since July 1793. If the counsel for Watt had not put the question to me the other night, whether I did not receive a letter from him when I was at the duke of Athol's house, last September, it would not have occurred to me that I did. I was there the latter end of September; I have endeavoured to recollect as accurately as I can, and I cannot recollect having received any such letter; but I am certain since October last, I never saw or



heard of him. The next time I heard of him was in the meeting of the Secret committee of the House of Commons, when Mr. Secretary Dundas communicated to us the discoveries made here by the sheriff. I had heard before this, and since the dispersion of the British Convention, that a citizen Watt had appeared, and was busy in the clubs. But it never entered into my head that he was the man. I had before that a great confidence in him, and I would have trusted him with any thing. I was perfectly thunder-struck when I heard the information, that this was the man who voluntarily had given Mr. Dundas and me these informations.

## DEFENCE.

Mr. Cullen. — Gentlemen of the Jury; — When I first heard, that I had been suggested by Mr. Downie, and appointed by the Court to be one of his counsel, I felt myself under very great perplexity.

The anxiety of mind, so unavoidable when standing entrusted with the defence of a prisoner under trial for his life, has been always felt by me so severely, that for a number of years past, I have as far as in my power, declined accepting the employment.

I felt myself more particularly distressed upon the present occasion, because it was a trial upon the law of another country, with which I myself, have little or no acquaintance. It was a trial not only according to the law, but according to the forms of the law of England, with which I am, if possible, still less acquainted.

More particularly did I feel these difficulties press upon my mind, when I understood that his majesty's counsel, distinguished as they are for their learning and abilities, had found it necessary to bring down from another country, gentlemen of great consideration and eminence in their profession, in order to give their assistance in the conducting of these prosecutions. I wish that the situation of these unfortunate persons who have been now brought to trial, had been such, as to enable them also to bring down, for their defence similar aid to that which has been brought upon the other side. But unhappily, that was far beyond their reach, and they were obliged to trust their defence to those gentlemen whom the Court should assign to them as counsel.

Under all these difficulties, with which I felt myself surrounded, the weight upon my mind was such, that I was ready to shrink from the task; and nothing could have induced me to undertake it, but the respect I owe to any appointment with which the Court is pleased to honour me, and a resolution which I think becoming my profession, of not refusing what little services I can render to an unfortunate person standing a prisoner at the bar of a criminal court, who desires my aid and assistance. I have always considered it as a painful, but as one of the most honourable discharges of my professional duty, to

give that aid to persons under those circumstances; and it was from these considerations that I yielded to the solicitations of the prisoner at the bar, and agreed to assist him to the best of my power.

If any thing could have added to the anxiety of my mind, it was what I came to learn of the character and situation of this poor man, whom I never had seen, nor knew any thing about, before I was appointed one of his counsel. A man, advanced in years, in the decline of life, with old age coming fast upon him. A man, in a creditable situation, and who for many years has been a member of one of the most respectable incorporations of this city, with a character perfectly unblemished and unimpeached. Add to all this, his having a wife and family of children; and I could not help thinking strange, nay incredible, that a person of such a description, at a period of life when innovations and commotions were surely no object to him, could be guilty of high treason, and enter into schemes for the overthrow of that government under the protection of which, he and his family were enjoying peace and security.

The more that these things have made me believe him guiltless of any such wild and criminal designs, the greater has my desire become, to do justice to his defence; and, under all this anxiety, I much fear, my inability to discharge my duty properly. I will, however, endeavour to do my utmost; and as I know the justice and candour of the Court before which I have the honour to plead, so I know also the integrity, the attention, and the humanity of the jury whom I address, and that they will not only pardon, but amply supply any defects of mine.

Gentlemen, what is now brought before you is a charge against the prisoner at the bar for the crime of high treason, and you all know that it is by the law of England he is to be tried. At the time of the treaty of Union, as was very properly stated this morning by the lord advocate, it was judged expedient, and it certainly was so, that with respect to a crime of this nature, the law of the two countries should be put upon the same footing; and, accordingly, it was agreed and determined, that the law of England should, as to treason, be made the law of Scotland. In consequence of this, soon after the period of the Union, an act of parliament was passed in the 7th of queen Anne, by which it was provided, that in time coming, such crimes and offences which are high treason or misprision of high treason within England, shall be construed, adjudged and taken to be high treason and misprision of high treason within Scotland. In short, the law of treason in England was made the law which in that particular was to govern Scotland in time to come.

I must acknowledge, gentlemen, that I feel a considerable degree of diffidence in offering observations to you upon the nature of the law.



of treason in England, because, as I have already said, the law of England is what I am very little acquainted with. I have endeavoured, however, since I had the honour of being appointed counsel in this case, to consider and peruse, with all the attention in my power, the books of the law of England with regard to treason; and although I shall not trouble you with long quotations, nor with reading many passages from different books, I shall take the liberty of stating some remarks with respect to what I conceive to be the law of treason, as far as it can affect the case now under consideration.

Gentlemen, the great law with regard to high treason in England, is the well-known statute of the 25th of Edward 3rd; and that act of parliament was passed for the very purpose of defining and rendering the nature of the crime of treason precise and certain. It is mentioned by all the different writers upon the law of England, that, anterior to the period of Edward 3rd, the law respecting treason had been so unsettled, and undefined, that frequently crimes of a much lesser degree of guilt, had, notwithstanding, been accounted treason. In order to prevent this, the statute of Edward 3rd was passed, proceeding upon a petition from the Lords and Commons, the mode in which acts of parliament run at that period; and the act itself declares what offences shall in time coming be adjudged treason.

There are only two branches of this statute, which it is in any degree material for me to bring particularly under your view. The first thing that it declares to be high treason is, the compassing or imagining the death of the king. The statute itself, like the others of that period, was written in the French language, and the words are "*compaser, ou ymager la mort nostre seigneur le roy.*" It is perhaps singular, as has been well remarked by an ingenious writer, that the life of every British subject prosecuted by the crown for treason should continue to depend upon the critical construction of two obsolete French words.

Another species of treason declared in this act is, the levying war against the king; and the statute provides, that when a man doth compass or imagine the death of the king, or doth levy war against the king, and thereof be proveablement, that is upon sufficient proof attained of open deed, he shall be adjudged guilty of treason. These are the only two species of treason to which I find it at all necessary to call your attention. Indeed the first of them is that upon which the present indictment is laid.

I must likewise observe, that the very design and purpose of this statute was, to prevent arbitrary constructions, as to what was treason, and to prevent its being in time coming understood that any thing was to be adjudged treason, but that which the statute had actually declared and defined to be such. And I must differ exceedingly from those who

think that it was meant to leave to judicial power, to enlarge by construction, what should be held treason; for I take it, that this is directly opposite to what the statute had in view. It explicitly declares and specifies what should be held high treason, and that nothing else should be considered as such, and it very anxiously and specially provides, that if any other case, supposed treason, which is not specified in the act, shall happen to occur, the judges shall not hold it to be treason, till the king and his parliament shall declare whether it ought to be judged treason or other felony. Thus careful was the legislature to render the law of treason fixed and certain, and to provide that it should only be in the power of parliament itself, to extend the law, and bring under that description, any other offence, which this act had not declared to be such.

In the weak and unfortunate reign of his successor, Richard 2nd, many different acts of parliament were passed, declaring a variety of offences to be treason, which were not such by the statute of Edward 3rd; but all these were repealed and taken away in the beginning of the reign of Henry 4th, by an act which set forth, that no man knew how to behave himself, to do, speak, or say, for doubt of such pains of treason: and therefore declared, that in time coming, nothing should be held treason, otherways than was ordained, by the statute of Edward 3rd. Notwithstanding this, it so happened, that in succeeding arbitrary and tyrannical reigns, and particularly in that of Henry 8th a great variety of offences were most improperly declared to be treason, although they could not, with the least shadow of reason, come under that denomination. But all these were soon after completely abrogated by the statute of the 1st of queen Mary, which again brought back the law of treason to the footing upon which it stood by the 25th of Edward 3rd.

I mention these things, gentlemen, in order to show you, that the great object of the legislature has always been, to leave as little as possible to interpretation and construction, and to keep as defined and as clear as might be, what should be held high treason; so that the subject might have a certain rule whereby to square his actions, and to protect him from arbitrary prosecutions for treason, when in fact no such crime had been committed.

Posterior to the act of queen Mary, which I have just now mentioned, some new treasons were created by statute, but they have been chiefly of a temporary nature. There were some in the reign of Elizabeth, and one in the reign of Charles 2nd but they expired with the lives of those princes; and there have been none since, excepting those for securing the Protestant succession in the illustrious house that now reigns, and I hope and trust will long and happily reign over these kingdoms. The statutes to which I now allude, however, do not in the least degree



touch upon the present question; so that, in short, the single and only statute which is to be regarded as defining and explaining what is to be held high treason, is that of the 25th of Edward 3rd.

There is a statute, indeed, of great consequence, which was passed some years after the happy Revolution in 1688, I mean the act of the 7th of William 3rd, for regulating of trials in cases of treason.

Besides other salutary regulations which the statute introduced, it provided, that no person should be indicted, tried, or attainted of treason, but upon the oaths of two lawful witnesses, either both to the same overt act, or one of them to one, and another to another overt act of the same treason. It farther provided, that if two or more distinct treasons of different kinds should be charged, one witness to prove one of them, and another witness to prove another of the said treasons, should not be held two witnesses to the same treason within the meaning of the act. And a third provision of the act was, that no evidence shall be admitted or given of any overt act, that was not expressly laid in the indictment. These are some of the important regulations established by this excellent statute; and there will be occasion for you to give some attention to them in considering the evidence which has been adduced against the prisoner at the bar.

Having thus endeavoured to give you a view of the statute law upon this subject, I must now observe to you, gentlemen, that the present indictment charges the prisoner with the first species of treason, which is that of compassing or imagining the death of the king; and it will be with you to consider, whether the overt acts that are laid, amount to that crime.

It is not indeed pretended by the prosecutor, that he can establish against the prisoner the compassing or imagining the death of the king, agreeable to the terms of the statute; but you are told, that there is known in law, what is called constructive treason, or, in other words, a treason not to be found in the letter of the law, but raised up by interpretation and implication. Thus, levying war against the king is one of the species of treason in the statute of Edward 3rd; but a mere conspiracy to levy war, without war actually levied, is not; and, therefore, to reach such a conspiracy, it has been held, that although not falling under the second, it falls under the first branch of the act, as a compassing or imagining the death of the king.

It seems to be this species of constructive treason that is meant to be charged against the prisoner; and with respect to constructive treason in general, I must beg leave to remark, that in its very nature, it is of a dangerous tendency, and such as ought never to be listened to, nor admitted, without at least the utmost caution and circumspection. As

I said before, I shall not trouble you with quoting many authorities, but I must take the liberty of here laying before you a single passage from a most respectable author—I mean sir Matthew Hale, lord chief justice of England, a man not less eminently distinguished for his high integrity, than for his great ability and knowledge of the law; and in his history of his pleas of the Crown, in speaking of constructive treason, he uses the following words, which I shall beg leave to read to you.

After mentioning the great mischiefs that were brought in by constructive treason, he says:—"Now although the crime of high treason, is the greatest crime against faith, duty, and human society, and brings with it the greatest and most fatal dangers to the government, peace, and happiness of a kingdom, or state, and therefore is deservedly branded with the highest ignominy, and subjected to the greatest penalties that the law can inflict: yet by these instances, and more of this kind that might be given, it appears, 1st, How necessary it was, that there should be some fixed and settled boundary for this great crime of treason, and of what great importance the statute of 25th Edward 3rd was, in order to that end. 2nd, How dangerous it is to depart from the letter of that statute, and to multiply and enhance crimes into treason by ambiguous and general words, as accroaching of royal power, subverting of fundamental laws, and the like; and, 3rd, How dangerous it is, by construction and analogy to make treasons, where the letter of the law has not done it: for such a method admits of no limits or bounds, but runs as far as the wit and invention of accusers, and the odiousness and detestation of persons accused, will carry men."

These are the sound and wholesome admonitions of this great lawyer and judge, who, as you see, gentlemen, from the passage I have now read to you, points out, in strong and forcible terms, the imminent mischiefs and dangers, necessarily resulting from the too readily giving way to treasons by construction.

But, gentlemen, while I give you this caution, in the words of the venerable judge whom I have quoted, I am not upon that account to say to you that in the law of England there is no such thing as constructive treason. I do not pretend to impose upon you so idle a doctrine; for I mean to be candid, and, as far as my knowledge will enable me, I wish to state to you fairly, what I conceive to be the true principles of the law. There undoubtedly has been admitted and sanctioned by law, what is termed constructive treason; and accordingly, a conspiracy to levy war against the king, although such war not being actually levied, could not come under that article of the statute of levying war, has, by a certain construction and interpretation, been held to come under the first



branch of the act of compassing and imagining the death of the king.

This, gentlemen, as I have already remarked, is that species of constructive treason, of which the prisoner is here accused. He is not charged with any direct attempt to imagine or bring about so horrid a purpose; but he is charged with what, it is said is to be construed a compassing or imagining of the king's death. It rests upon this, that there is said to have been here a conspiracy to levy war, against the king. If war had been actually levied it might perhaps have amounted to direct treason, under the second branch of the statute of Edward 3rd; but it being only charged as a conspiracy, or, in other words, a mere design and intention never carried into effect, so the aim of this prosecution is to lead you to believe, that it is by construction, that species of the crime which is described to be the compassing and imagining the death of the king.

Upon this construction, a conspiracy to levy war against the king, is supposed and understood to be immediately tending to the compassing or imagining his death, because it is a conspiracy to do that, which may necessarily and unavoidably involve the safety of the king's person, or even his sacred life. Now, I admit that a conspiracy to levy war, taken in the sense in which I have now stated it, may be held a compassing or imagining the death of the king, so as to bring it to be treason under the first branch of the statute. But, gentlemen, I do beg leave to say, and I do not, in my humble conception, think that I speak it without authority, that there is here a very great and important distinction to be made, highly meriting your consideration.

If the conspiracy to levy war be in itself of such a nature, that the object of it is, directly and immediately, towards the person of the king, then I will readily admit, that agreeable to the received construction of the law, it is to be held a compassing or imagining the death of the king, and may therefore be brought under the first branch of the statute of treasons; but while I admit this, I must at the same time take the liberty of saying, that, with regard to conspiracies to levy war, there is a necessity for distinguishing, and for viewing the king in two different characters and capacities.

In the first place, the king is to be considered, as in his royal person at the head of his government, and in whose personal safety, the peace, the good order, and the security of the whole country is necessarily involved. Viewing him in this light, any attempt of conspiracy, or intention to levy war, directly aimed against the person of the king, is a wicked design to destroy the whole bonds of civil society. I readily admit, that it is equally founded in sound sense, and supported by clear authorities, that such a conspiracy to levy war, may be justly deemed high treason,

as compassing and imagining the death of the king, under the first branch of the statute of 25th of Edward 3rd.

But, in the second place, gentlemen, there is another and a very different character in which the king is to be considered, and which arises from his being that part or branch of that constitution, to which the executive power of the state is entrusted. This has been justly termed the royal capacity, or the majesty of the crown, as contradistinguished from the royal person of the king. It is, in short, the authority of the king in executing the laws, and it runs through, and pervades every branch, and every gradation of the executive government, from the very highest, to the lowest and most inconsiderable. In this view, even actual resistance to the royal authority, and, still more, the intention or design to resist it, is considered in a very different light, and as an offence of an infinitely less degree, than where it is more directly a conspiracy to levy war against the king, immediately to affect his royal person.

There is no occasion for our here entering into any discussion respecting the degree of criminality that may attach to actual resistance in different circumstances to civil authority; but what I beg leave to say, and that to which I request your attention, is, that even in those cases where war actually levied might be held treason, yet a mere intention or conspiracy to levy such war, does not involve the crime of compassing or imagining the death of the king, unless the commotion or insurrection so intended, be such as is aimed against the person of the king, and not merely against his authority or regal capacity. If the insurrection has been raised, or war actually levied, it may, under the statute of Edward 3rd be high treason, but if it be merely a conspiracy to raise an insurrection, or a purpose or intention to levy war, in order to resist some branch of the executive authority of the state, or some officer of the crown, I will be bold to say, that a mere conspiracy, or a mere intention to levy that, has not been held or understood to constitute the crime of high treason.

Now, gentlemen, that I may not be supposed to lay down this doctrine without authority, I must be pardoned for bringing under your view, what is stated by two very distinguished and eminent lawyers, who have treated of this subject.

The one of them is from a book which I think is one of the best, and it is one of the latest upon the law of high treason, I mean that written by Mr. Justice Foster, who, after mentioning, that every insurrection intended against the person of the king, amounts to levying war within the statute, adds farther, that every conspiracy to levy war for these purposes, though not treason within the clause of levying war, is yet an overt act within the other clause of compassing the king's death, because these purposes cannot



be effected by numbers and open force without manifest danger to his person.

After stating this, he in the next section proceeds and says, "Insurrections in order to throw down all inclosures, to alter the established law, or change religion; to enhance the price of all labour; or to open all prisons; all risings, in order to effect these innovations, of a public and general concern, by an armed force, are, in construction of law, high treason within the clause of levying war. For, though they are not levelled at the person of the king, they are against his royal majesty. And besides, they have a direct tendency to dissolve all the bonds of society, and to destroy all property, and all government too, by numbers and an armed force. Insurrections, likewise, for redressing national grievances, or for the expulsion of foreigners in general, or indeed of any single nation living here under the protection of the king, or for the reformation of real or imaginary evils of a public nature, and in which the insurgents have no special interest—risings to effect these ends, by force and numbers, are, by construction of law, within the clause of levying war. For they are levelled at the king's crown and royal dignity."

Then he goes on, in the next section of his treatise, to mention a rising in the 16th of Charles 1st, which was in order to surprise and seize archbishop Laud; and after explaining the circumstances of that case, he in the following section says; "But a bare conspiracy for effecting a rising for the purposes mentioned in the two preceding sections and in the next, is not an overt act of compassing the king's death; nor will it come under any species of treason within the 25th Edward 3rd, unless the rising be effected. And, in that case, the conspirators, as well as the actors, will all be equally guilty. For, in high treason of all kinds, all the *participes criminis* are principals."

"It must be admitted that conspiracies for these purposes have been adjudged treason. But those judgments were founded on the temporary act of 13th Elizabeth, which made compassing to levy war, declared by printing, writing or advised speaking, high treason, during the life of the Queen.

"There was an act in the 13th Charles 2nd to the same purpose, on which some prosecutions were founded; but that act expired with the death of the king."

You see here, gentlemen, this learned and respectable judge, a man of great eminence and character, laying down, in clear and explicit terms, the very distinction which I have taken the liberty of maintaining. It is the distinction between a conspiracy to levy war aimed at the royal person of the king, and a conspiracy to effectuate a rising for the purpose of redressing some grievance, whether real or supposed, or of whatever nature it may be. In short, every conspiracy, which, if carried into effect, would necessarily expose the

person of the king to danger, may be held treason. But it is admitted by every lawyer who has treated of the subject, that levying war is of two kinds: the one is against the person of the king, and even to conspire this, although such war be not actually levied, is yet treason. Another kind, however, is against what is called the majesty of the king, or against him in his regal capacity; and the mere conspiracy to levy this, if not actually levied, is not treason, because it cannot by construction come up to be a compassing or imagining the death of the king, so as to fall under the statute of Edward 3rd.

This, gentlemen, is a point of the utmost importance, and it may be an arduous matter indeed to say where the line is to be drawn, if you do not fix it in the very way that is done by the learned judge, whose words I have just now read to you. If any farther latitude is to be admitted, I do not know what there is, that may not be construed into a conspiracy to levy war, so as by forced implication to be held a compassing or imagining the death of the king. An intention or design to resist or obstruct any one branch of the civil authority, or executive power of the state, may be said to have a more or less immediate tendency in its consequences to endanger the person of the sovereign, and in that way, by a very strained construction, may be accounted a compassing the death of the king.

It is fearful even to figure the dangers and mighty evils to which this might lead. If we do not draw a clear line, there is no saying how far it will reach; and this may call to your mind, the wise admonition I read to you from lord Hale. "How necessary it is, that there should be some fixed and settled boundary for this great crime of treason; and how dangerous it is, by construction and analogy, to make treasons, where the letter of the law has not done it; for such a method admits of no limits or bounds, but runs as far as the wit and invention of accusers, and the odiousness and detestation of persons accused will carry men."

Besides what I have read to you from Mr. Justice Foster, there is one other authority which I must beg leave to state, and it is that of another very eminent and respectable judge, I mean sir John Holt, who was lord chief justice of the court of King's-bench in England, during the reign of king William. He presided at the trials of several different persons who were accused of the crime of high treason after the Revolution; and, amongst others, in the case of sir John Friend, who was tried for being concerned in a conspiracy against the king, and to restore the Pretender.

In that case, when summing up the evidence to the jury, lord chief justice Holt lays down the law in the following words: "Then there is another thing that sir John Friend did insist upon, and that is matter of law: The statute of 25th Edward 3rd. was read,



which is the great statute about treasons; and that does contain divers species of treason, and declares, what shall be treason. One treason is, the compassing and imagining the death of the king; another is the levying war: Now, says he, here is no war actually levied; and a bare conspiracy or design to levy war, does not come within this law against treason. Now, for that, I must tell you, if there be only a conspiracy to levy war, it is not treason. But if the design and conspiracy be either to kill the king, or to depose him, or imprison, or put any force or restraint upon him, and the way and method of effecting of these, is by levying a war; there the consultation and the conspiracy to levy a war for that purpose, is high treason, though no war be levied; for such consultation and conspiracy is an overt act, proving the compassing the death of the king, which is the first treason mentioned in the statute of the 25th of Edward the 3rd. For the words of that statute are, that if any man shall compass or imagine the death of the king. Now, because a man designs the death, deposition, or destruction of the king, and to that design, agrees and consults to levy war, and this should not be high treason if a war be not actually levied, is very strange doctrine, and the contrary has always been held to be law. There may a war be levied without any design upon the king's person, or endangering of it, which if actually levied is high treason; but a bare designing to levy war, without more, will not be treason; as, for example, if persons do assemble themselves, and act with force in opposition to some law which they think inconvenient, and hope thereby to get it repealed, this is levying a war and treason, though purposing and designing it, is not so; when they endeavour, in great numbers, with force to make some reformation of their own heads, without pursuing the methods of the law, that is a levying of war, and treason; but the purposing and designing it, is not so.\*

In this clear and perspicuous manner is the law laid down by this learned judge. It would be easy for me to produce to you various other authorities to the same purpose, from those who have treated of the criminal law of England; but I am unwilling to detain you. I have read to you the words of lord chief justice Holt, who presided in the various trials for high treason, after the Revolution in 1688; and I have read to you the words of Mr. justice Foster, who sat as judge in the trials for treason after the rebellion 1745, and from that circumstance had his attention so particularly called to this branch of the criminal law, that he afterwards wrote a very learned and excellent treatise upon the subject. And gentlemen, you find these distinguished and eminent judges laying down that very distinction to which I am humbly requesting your atten-

tion; and which is, that where the war to be levied, is aimed directly against the person of the king, in order to dethrone, or to depose him, then a conspiracy to levy such a war, is treason; but where the purpose is merely to make some reformation with force and numbers, without pursuing the methods of the law, there, although the actual levying such war is treason, yet a conspiracy to do so, or, in other words, the purposing and designing it, is not so.

After having thus endeavoured to convey to you a clear idea of the important distinction which I have been here explaining, I must now beg leave, gentlemen, to call your attention to another principle regarding the law of treason; and it is a principle the more strongly demanding your consideration, because I conceive it to be of great moment in the present case.

In other crimes, a design to commit the crime, an intention or purpose of the mind to perpetrate it, or even some step taken towards the commission of it, does not constitute the crime itself. An intention to commit theft or murder, however it may mark the guilt of the mind, yet while remaining a bare intention it is not viewed in the same light, nor draws after it the punishment of the law, as if the guilty purpose had been carried into effect, and the crime actually committed.

In the crime of high treason, however, the case is different; and there the rule is, *Voluntas reputatur pro facto*. In treason, the circumstance to be regarded is, the intention of the mind. It is the purpose and design; or, in other words, it is the guilty heart, that is in this crime the object of punishment. Accordingly, it is the traitorously compassing and imagining, that constitutes the offence, and the overt acts are only viewed as the evidence of the traitorous intention.

So clearly is this the principle of the law, that if a person was to put to death the king, the indictment against him would be laid, not for committing that most atrocious act, but it would be laid against him for compassing and imagining the death of the king; and the killing of the king would be the overt act to prove the compassing and imagining of it. After the restoration, when the Regicides came to be tried for the murder of king Charles 1st, the indictment was not laid, upon their having put the king to death; but they were charged with traitorously compassing and imagining the death of the king, and the taking off his head was laid as one of the overt acts.

This is well stated by Mr. Justice Foster, where he says, "The indictment must charge that the defendant did traitorously compass and imagine, &c. and then go on and charge the several overt acts as the means employed by the defendant, for executing his traitorous purposes. For the compassing is considered as the treason, the overt acts as the means made use of to effectuate the intentions and

\* See Sir John Friend's case, Vol. 13, p. 61, of this Collection.



imaginings of the heart. And, therefore, in the case of the Regicides, the indictment charged that they did traitorously compass and imagine the death of the king. And the taking off his head was laid, among others, as an overt act of compassing: And the person who was supposed to have given the stroke, was convicted on the same indictment."

And a little afterwards, he adds, "The statute of treasons hath with great propriety retained the rule, *Voluntas pro facto*. It considereth the wicked imaginings of the heart in the same degree of guilt, as if carried into actual execution, from the moment measures appear to have been taken to render them effectual."

In the crime of treason, therefore, the law considers and looks to the wicked imaginings of the heart; and the overt acts are only the indications and evidence of the traitorous purpose. From this it necessarily follows, and it deserves, gentlemen, your particular attention, that in any charge for high treason, and in considering the overt acts laid, and the proof brought in support of them, the great and important object must be, to weigh, with the most cautious deliberation, the nature of the overt acts, and judge how far they are such as carry a conviction to the mind of a jury, of the wicked and traitorous purpose in the person accused, of compassing and imagining the death of the king.

Gentlemen, I must entreat your attention to this, for it is of great importance. You see the principle of the law is, that it is the traitorous purpose of the mind, which alone constitutes the offence. The overt acts are only stated as proofs of that traitorous purpose, and, therefore, the thing to be considered is, the nature, the amount, and import of the overt acts; and whether they afford complete and convincing proof, that they must and can only have proceeded, from the wicked and guilty intention of compassing and imagining the death of the king.

In the present case, the species of treason charged is, the compassing and imagining the death of the king, and, therefore, the overt acts must be such as necessarily to prove that charge. The overt act can be of no sort of consequence, unless in so far as it can connect with and prove the malicious compassing and imagining. An overt act amounting to any thing less than this, can be of no avail. It may show a seditious purpose, or may amount to an offence of some other kind; but where it is laid in support of an indictment for compassing and imagining, it must necessarily apply to that, or otherways can be of no weight in proof of the charge. In short, the wicked purpose of the heart constitutes the crime; and a jury must be sure of that wicked purpose in the person accused, before they can convict.

Although I have said, gentlemen, that, in other crimes, the intention or guilt of the mind does not constitute the offence, and that

it is requisite the intention be actually carried into effect, yet I must at the same time observe, that in all crimes whatever, the greater or lesser degree of guilt in the mind, essentially varies, and changes the extent of the offence. Thus, in homicide, it totally depends upon the intention of the heart, whether it is to be deemed any crime at all; or, if a crime, then of what nature that crime is. The effect is the same, for the man is killed; but the person who killed him, may be guilty or innocent, according to circumstances. If he has killed him by innocent misfortune, or in necessary self defence, he is guilty of no crime. If he has killed him only upon provocation, and in sudden passion, he is guilty only of manslaughter. If he has killed him of design and from malice prepense, *ex malitia præcogitata*, it is the atrocious crime of foul and deliberate murder. The whole colour and complexion of the offence, in short, shifts and varies according to the degree of guilt in the heart, from which it proceeds.

In treason, however, as I have already shown you, the very essence of the crime lies wholly in the wicked purpose or intention. It is not necessary, as in other crimes, that the purpose be carried into effect, but the very heart is to be looked into, and if the deliberate and wicked purpose is found there, it is the crime of treason. The law requires, indeed, that the traitorous purpose must be manifested *proveablement* by open deed; that is to say, by overt acts sufficiently proved; but as it is the criminal purpose that is the object of punishment, so the overt acts are only the manifestation of the traitorous intention, and are not to be regarded nor held of any weight, excepting in so far as they amount, to clear manifest and unequivocal proofs, of the wicked purpose of compassing and imagining the death of the king.

My lord chief justice Coke, in the 3rd part of his Institutes, where he treats of the crime of high treason, frequently repeats the maxim, *Actus non facit reum nisi mens sit rea*. It is not the deed that makes the guilt; but it is the guilty mind that constitutes the crime. You are to look, therefore, gentlemen, to the intentions and imaginings of the heart. You are to consider the overt acts only in so far as they may manifest the wicked intention. You are scrupulously to weigh the overt acts, and consider whether they afford proof of that wicked, deliberate, and malicious purpose of the heart, and whether they carry home to your own minds and consciences a clear and full conviction of the compassing and imagining the death of the king, which is the crime charged in this indictment.

Gentlemen, I have dwelt the longer upon this, and have enforced the more earnestly the principles I have stated, because I think they are peculiarly applicable to a case such as the present. In every indictment where the species of treason charged is the compassing or imagining the death of the king,



the overt acts laid, must be such as clearly prove and manifest that traitorous purpose. This, as your own good sense will at once suggest to you, must be a very nice and delicate matter. Hard it is, to dive into the recesses of the human heart; and yet, till you do this, and see it in the clearest and fullest light, you are not, as men of honour and integrity, entitled to conclude, that guilt is proved, nor to consign your fellow citizen to that punishment which is due to those only who are truly guilty of the crime that is charged.

And this leads, gentlemen, to a consideration which I deem of great importance, and which regards the nature of overt acts, as requisite to support an indictment, where the charge is, the compassing or imagining the death of the king.

There may occur certain times and situations, where circumstances, which in themselves are seemingly very slight, may yet justly be held such overt acts, as clearly and conclusively to prove and demonstrate the traitorous purpose. But while, as I shall immediately show, this not only may be, but at certain periods actually has been the case; yet, upon the other hand, there may full as certainly exist periods and conjunctures, where it would be dangerous and perilous in the extreme, from any circumstances or any overt acts, other than those of the most infallible and unambiguous kind, to form the conclusion of guilt.

I think I may well and successfully illustrate this, by taking a very short review of the trials for high treason, since the glorious era of the Revolution in 1688. After king William ascended the throne, and during his reign, repeated attempts were made to overturn the government, and there were even some conspiracies for the assassination of the king. In like manner, after the illustrious house of Hanover was happily seated on the throne, different efforts were made by the exiled family and their friends, to excite rebellion, and restore the house of Stuart. This produced, first, the rebellion 1715, soon after the accession of George 1st, and afterwards the rebellion 1745, during the reign of his late majesty, king George 2nd.

Almost the whole cases that have occurred of trials for high treason since the year 1688, have arisen from the many repeated, but most fortunately unsuccessful endeavours of the exiled family to recover the throne. In these trials, much argument and discussion seem to have taken place, regarding the overt acts requisite for proving the compassing or imagining the death of the king; and, in many of these cases, facts and circumstances apparently very slender, have yet been held sufficient to manifest the traitorous purpose.

It is needless for me to tire you with going through a number of different cases. I shall take one as an example of the whole, and it is the case of lord viscount Preston, who was tried in the year 1690, upon an indictment

for compassing or imagining the death of the king. His lordship and two other gentlemen had procured a smack to transport them to France, but were stopped before they got out of the river Thames, and their papers seized. Among the papers, was found a scheme intended to be laid before the French king, or his ministers, for invading the kingdom in favour of the Pretender, with many letters, notes, and memorandums, all tending to the same purpose. Lord Preston, late at night, went into a boat at Surry stairs, in which he was conveyed to the smack that was to convey him to France, but was seized before he had got out of the river.

Upon his trial, lord Preston insisted that no overt act was proved upon him in Middlesex, where all the overt acts were laid; for he was taken with the papers in the county of Kent. But the Court told the jury, that if, upon the whole evidence, they did believe that his lordship had an intention of going into France, and to carry those papers thither for the purposes charged in the indictment, his taking boat at Surry stairs, which are in Middlesex, in order to go on board the smack, was a sufficient overt act in Middlesex. Every step taken for those purposes, was an overt act; and accordingly the jury found him guilty.

Here you see, that this seemingly trivial and slight circumstance of his taking boat at Surry stairs, was held a sufficient overt act of the treason charged; but then, you will remark, gentlemen, that there being a clear, definite, and unambiguous object in view, and to which the overt act was to be applied, so, every step taken for accomplishing that object, was an overt act demonstrating the traitorous purpose. Nothing less than deposing and destroying the king could be the object in view; for the restoring the Pretender was utterly incompatible with the preservation and safety of the king upon the throne.

The papers and letters found upon lord Preston clearly demonstrated what was intended; for they were written in prosecution of certain determinate purposes, which were all treasonable, and then in contemplation of the offenders. Any step, therefore, even the taking boat at Surry stairs to go into France, was an overt act sufficiently plain and manifest. As my lord Holt said to the jury: "If any one can design innocently to go to France at this time of the day, with such papers and in such a manner, I leave to the jury's consideration."

I might go through a great variety of other cases of treason that have occurred since the Revolution, but it is altogether unnecessary, as they would only illustrate the same thing. In all of them, the invariable object has been to restore the exiled family to the crown, and for that purpose to depose and dethrone the king in possession. The purpose, therefore, was certain and determinate, so that not even a doubt could be entertained about it; and when that was the case, overt acts, even of the



slightest kind, might be held sufficient, it being impossible that any steps towards restoring the Pretender could mean any thing less than deposing the king.

But, gentlemen, it would be most unjust and unfair, to infer, that circumstances equally slight, should be held sufficient overt acts, where the situation is widely different, and where there is no such clear and determinate object to connect with a traitorous purpose. In order to fix the existence of the traitorous intention, it is necessary, that there should, in the first place, be proof that the object in view is clearly and certainly to affect the person of the king. Without evidence of such certain and determinate object, it must be unjust to suppose a traitorous purpose, or to hold, as overt acts, facts and circumstances, which may have had for their object, something exceedingly different from any such most wicked and criminal design.

It would be a dangerous thing, indeed, and would be bringing the liberty and security of the subject into a most perilous condition, if, upon the bare supposition of the existence of a design to dethrone the king, and overturn the government, any jury was to interpret into overt acts of treason, facts and circumstances, which, if there be no such object in view, may be either in themselves altogether innocent, or at least infinitely less criminal, than to deserve the denomination of high treason. It becomes you, therefore, gentlemen, and it is a duty which you owe to yourselves and to your country, to proceed with the nicest caution and circumspection. Before you admit circumstances in the conduct of any man, as overt acts of a treasonable purpose in his mind, you must be well assured, and have indubitable proof, that there did exist a certain and determinate object, towards accomplishing which these overt acts tended; or, in other words, that there was a fixed purpose of compassing or imagining the death of the king. Nay, more, you must see that object clearly connected with, and brought home to the person accused; for otherwise you cannot fix upon him the traitorous purpose, let the existence of the scheme be ever so certain.

I am much afraid, gentlemen, I have detained you too long with these general observations respecting the law of high treason. Happily for the peace and tranquillity of this country, we are little acquainted with trials of this kind, and the subject being new to you, I thought it my duty to endeavour to explain, as clearly as in my power, what I conceive to be the principles of the law of treason, so far as any ways material for the consideration of the present case. I shall now proceed to offer you some observations upon the evidence which you have this day heard; and the attention with which you have hitherto honoured me, induces me to hope that you will patiently listen to what I have yet to say.

Gentlemen, you have heard the indictment against the prisoner read, and you have heard it recapitulated and enlarged upon by the counsel for the crown. It is very long, and I will not tire you now by going over the several parts. I have already observed, that, though branched out into a great number of different articles, yet, upon the whole, the only species of treason charged, is that of compassing or imagining the death of the king. Not being accustomed to this very prolix form of indictment, I find myself lost and bewildered in its verbosity and endless repetitions. I presume, however, that the various articles or counts, into which it is branched out, are meant as setting forth so many different overt acts of the species of treason charged. In place, therefore, of following the indictment minutely, I shall now confine myself to those particulars which the prosecutor seems chiefly to have rested upon, as the overt acts in support of his charge, and to which, accordingly, the proof which he has this day brought, has been directed.

The first branch of the evidence adduced on the part of the prosecution, was, as you were told, to explain and point out to you the nature and the spirit of the measures of that meeting called the British Convention, which was held here some time in the end of last year. Evidence was introduced, likewise, respecting the objects of a society held in London, called the London Corresponding Society, and you have had printed papers and letters produced to you regarding certain proceedings of that society. And the great purpose of all this evidence is, to connect together, as intimately as possible, the views and objects of that society in London, with those of the British Convention, and the society of the Friends of the People in Scotland.

I must remark, gentlemen, that in all this, the counsel for the prosecution have taken a very wide and extraordinary range. Societies in two distant and different parts of the united kingdoms, are thus endeavoured to be blended together, although composed of individuals totally different; and every measure adopted by the one, is not only to be supposed the measure of the other, but every the most wild, frantic, or intemperate proposal or expression of any rash individual in the one, is not only to fix that character upon the whole of that numerous society to which he belongs, but at once to transfer and to contaminate with the same character a distinct set of men at several hundred miles distance.

I will not detain you by going through the papers which were produced, and which you this day have heard read, but I must take the liberty of offering some general remarks upon the whole of this branch of the evidence, and what weight or influence it ought to have upon your minds, in considering the case of the unfortunate prisoner at the bar, whose life is now in your hands.

It is a fact well known to all of you, that



for a number of years past, there have been many persons who have thought that there were abuses requiring correction, and that for this purpose certain reforms in the constitution of parliament was necessary. Whether this opinion be well or ill founded, I do not think it in the least degree material for me to inquire, nor would it be proper here to enter into such a discussion. I shall be allowed to say, however, that it is an opinion which has at least extensively prevailed, and has been countenanced and supported by many persons, not only of the highest rank and most respectable characters, but men, as zealously and sincerely attached to the government and constitution of this country, as any in the kingdom. It has been repeatedly the subject of discussion in parliament, and it has been an object, zealously pursued by many societies and bodies of men in different parts of the kingdom, and this for a course of years past, without incurring the censure or meeting with any check from government. Indeed, while men act upon an opinion, of the justice of which they have an honest conviction, and while they pursue that, in a perfectly fair, legal, and constitutional way, it is impossible, that in this free and happy country, they can meet with either censure or reprehension.

I have said thus much, gentlemen, because I wish you to remember and keep it in your view, that every man who is friendly to reform, and even zealous for promoting it, is not upon that account, to be set down as a person entertaining hostile intentions against the law and government of the country. There are many persons warmly attached to reform, whose views are not only the most pure, and whose love of the constitution is not only the most thoroughly sincere; but who, from their very ardour for preserving the constitution in its utmost purity, cherish the idea of reform, and pursue the completion of it with enthusiastic zeal. Whether their idea be right or be wrong, it is of no consequence. While they pursue it fairly and honestly, they certainly can incur at least no blame; and I earnestly request of you to remember, that those who are friends to reform, are not upon that account to be supposed or presumed enemies to the constitution; for if you did, you would rashly involve in that description, not only many honest, sincere, and well-meaning men, but also some of the most pure, the most enlightened, and the most exalted characters in this nation.

And, gentlemen, I must beg leave to go a little farther, and while you are to be careful not to presume, that men, because they are friends to reform, are therefore hostile to government, I must entreat of you also to reflect, that in societies or assemblies of men, you are not to conclude, that the extravagant, the wild, or the intemperate opinions and ideas of some, are the opinions and ideas of every other person of which the society

or meeting may be composed. In all such numerous assemblies, there will often shoot up violent and turbulent spirits, whom the more sober and moderate may for a time be unable to resist; but because such intemperate men may for a while rule, and give the colour of their own minds to the proceedings of the meeting, it would be hard to condemn the whole, in one indiscriminate heap, and so involve the innocent with the guilty. Let every man be responsible for himself alone. In common fairness and in justice, we ought to separate and discriminate; and till a man is proved to be himself guilty, do not let us involve him in the guilt of another.

We have heard much to-day of what passed in the meeting at the Globe-tavern in January last, and of the proceedings at Chalk farm upon 14th April. I am exceedingly far from wishing to vindicate those meetings, and still less will I attempt to justify their wild and extravagant proceedings; but, notwithstanding this, I am willing to believe, that there must have been many individuals, who, however well disposed to support the cause of reform to a certain extent, would never have adopted any violent and inconsiderate ideas of the leaders of those meetings, but, on the contrary, if they had seen any such farther pursued, or about to be seriously carried into effect, would at once have resisted them with their utmost force, and if unsuccessful in that resistance, would instantly have relinquished and abandoned a society, whose measures were not calculated to promote reform, but to produce anarchy and confusion.

You have been told, gentlemen, that towards the end of last year, and in the beginning of the present, the object of the different societies for reform, came to assume a new appearance. The obtaining a reform of the representation in parliament, was still held out as the ostensible pretext, while, in fact, as we are told, more daring and criminal designs were secretly in view. In short, it is said, the plan was, to assemble what was to be called a General Convention, to be composed of delegates from various societies, meetings, and assemblies of men in different parts of the kingdom, and which was intended, forsooth, to supersede the House of Commons in its representative capacity, and to assume to itself all the functions and powers of a national legislature.

If there really did exist so daring a design, it was not less wicked and criminal, than mad and absurd in the extreme. It could spring up only in the brain of persons that were insane, and could not seriously exist in the rational mind of any sober thinking man. The wild, and intemperate language, and proceedings of the Globe tavern, and Chalk farm meetings, might indeed justly awaken the attention of government, and might render it wise to keep a watchful eye over such men, and to take the requisite measures for pre-



venting that general convention, which, if it should be actuated by so intemperate a spirit, might be productive of dangerous consequences. But while I may readily admit this, I must at the same time own, gentlemen, that I feel in my own mind such a love and veneration for our excellent constitution, and I place such confidence in the good sense of the people of Great Britain, and in their full conviction of the blessings of that government under which they live, that I can scarcely suffer myself to entertain an idea that this proposed general convention, even if it had assembled, which it never did, would ever have given their concurrence and support to any measures inimical to government, or have gone a single step farther than to take fair, legal, and constitutional measures for renewing their applications to parliament for obtaining a reform.

I beg leave to say again, gentlemen, that I am very far from wishing or attempting to justify the proceedings at the Globe tavern or at Chalk farm; or in short of any such meetings; and I think government acted cautiously and wisely in using means to prevent the proposed general convention. But, however prudently government might act, in this respect, you will remember, also, that the general convention never did assemble; and I cannot help, therefore, thinking it rather hard to conclude, with any certainty, what would have been the proceedings and the resolutions of that assembly, if they had ever been brought together. What may be a sufficient cause of alarm as to what possibly might happen, can be no just ground for concluding, that what was dreaded certainly would have happened, had the convention met. I feel a persuasion in my mind, nay, I have not a doubt, that if that convention had ever assembled, and if there were any persons who had formed dangerous or criminal designs, they would have found their views completely frustrated and disappointed. When the crisis arrived, and when it was to be finally resolved what measures were to be pursued, reason and good sense must have prevailed; and all the angry expressions, and all the hasty, rash, and intemperate resolutions and publications which had been before sent forth, would have vanished, as sound and fury, signifying nothing. When brought to the brink of the precipice, they would have paused, and wiser and cooler men, with that irresistible influence, which the dictates of sound reason must ever command, would have taught them that the excellent constitution under which they lived, would be but ill-exchanged for anarchy and confusion; that this, however, would be the too certain result of any rash attempt to substitute another in its place; that any requisite and salutary reforms, would be best attained by those known and legal means which the constitution itself had provided; that their demands,

if just in themselves, would ultimately be complied with; that, in the mean while, they should learn to value that peace, security, and happiness which they enjoyed; and not, by impatient and inconsiderate violence, tear to pieces the whole fabric of government, and involve themselves and their country in confusion and disorder.

Reasoning, so sound and so convincing, would infallibly have prevailed; and at any rate, I surely may at least say, that it would be unfair to form any unfavourable conclusion as to what would have been the conduct and proceedings of a convention, which it is admitted never did assemble. The very purpose of this intended convention, seems to have been, to know and to collect the sentiments of the friends of reform in different parts of the kingdom; and as there is no doubt that the views of men were exceedingly different, both as to the extent of any reform to be sought, and as to the manner and time of applying for it, so I think it would be unjust to presume that the convention would have come to any criminal resolutions; and still more unjust to presume that every set of men who thought of sending delegates to that convention, had no other view nor purpose, than to supersede the House of Commons, and to assume all the functions and powers of that assembly.

But, gentlemen, I am afraid I have dwelt too long upon this; and I should not have thought it necessary to say so much if we had not this day heard at such length of the proceedings at the Globe tavern, and at Chalk-farm, with the view of assimilating the spirit and purposes of those meetings, and of the intended general convention, with that of some of the meetings and societies of the Friends of the People in this country.

For this reason, I thought it my duty, to trouble you with the observations I have suggested, in order that you might not be apt to form too hasty conclusions; that you might not be led to suppose criminal designs without the clearest proof; that you might not transfer the guilt of one man, or of one set of men, to another; but that you might distinguish, and carefully consider, what is the real nature and amount of the offence, and whether even the being guilty of that offence, is brought home to the person accused?

With regard to the prisoner now at the bar, he was no member of the London Corresponding Society, nor had he any concern in the proceedings either at the Globe tavern or at Chalk farm. Indeed, no such thing is even pretended; and as to his having been a member of that meeting called the British Convention, which assembled at Edinburgh in December last, you will remember, that this day when I opposed the admitting any proof of that, I was told by the gentlemen on the other side, that they did not care whether they proved Mr. Downie a member of the British Convention or not, because all they



wished for, was to show you what they were pleased to call the genius, the spirit, and the views of that meeting. In short they did not mean to criminate him on that account; and indeed they could not, because, in the prosecutions before the court of justiciary against certain persons for having been in that convention, the crown had adduced Mr. Downie as a witness in support of that prosecution; and having there given his evidence fairly, he could not be himself prosecuted for that offence.

After having laid before you some of the proceedings of this British Convention, the next thing endeavoured to be proved, was, that after this convention had been dispersed by my worthy and respectable friend the lord provost, in some place where they had assembled in Edinburgh, they again presumed to meet in another place on the south side of the town, and which place being out of the jurisdiction of the city magistrates, the sheriff went there, and again dispersed them. After this second dispersion, you have heard, that a number of these people went to a Mason Lodge in the Canongate, where they held a sort of meeting, and afterwards once or twice assembled somewhere else.—You have been farther told, that there was formed what was called a Committee of Union, consisting of delegates from the different societies of the Friends of the People in the city of Edinburgh and its neighbourhood; and the object of this committee was, to carry on the purposes of reform. This Committee of Union being rather numerous, named a small sub-committee, which was called the Committee of Ways and Means, and of this Committee of Ways and Means, Mr. Downie, the prisoner at the bar, was a member.

Now, gentlemen, I beg leave to repeat again what I formerly said,—that I have no wish or desire to vindicate those attempts to continue such meetings, after they had been checked and disapproved of by the government of the country. I am very far from commending that spirit, and you may fix what blame you please upon it; but you will take care that out of your dislike and disapprobation of that, you do not go a step beyond what you ought to do, and connect it with what it has no real connexion, I mean the crime of high treason. I dare to say, that there were many Friends of the People in that Committee of Union, who had not even an idea of employing force and arms against the government of the country. They had it impressed on their minds, that a reform was necessary; and, in the breasts of some violent zealots, there might perhaps lurk even criminal designs; but I firmly believe, that in the great multitude of them, there was not even the most distant idea of trying, by force of arms, to compel that which they wished. As to their persevering and continuing to meet in spite of the lord provost and the sheriff, they most certainly did exceedingly wrong;

but what is the amount of that wrong? Let it be punished according to its degree of demerit; but, from that circumstance of their meeting privately, when they could not do so publicly, do not conclude that these men were intending high treason. Do not confound two things which are perfectly separate and different. Let the boundaries of crimes be kept clear and distinct. Let each meet with its proper punishment, but do not mistake one for another, nor construe into high treason, an offence that is infinitely less criminal.

It will not be said, that any proceedings in this Committee of Union were more culpable than those of the British Convention, which was dispersed; and you have seen gentlemen that the measures of that convention were not construed to be high treason. Margaret, Gerrald, and others, who were active in that convention, were brought to trial before the high court of justiciary: and the crime charged against them was not treason, but only sedition. Had it been treason, we should have heard of it as such; but they were tried and punished for sedition, and are now suffering the punishment of that offence. Nay, farther, even those persons concerned in the proceedings at the Globe-tavern, and at Chalk-farm, if they had been supposed guilty of high treason, would have been prosecuted and tried for that crime, and yet no such thing has happened. We are told, indeed, there is an intention to prosecute them, but of that you most certainly have no evidence; and you have no right to hold, nor conclude, that the members of this Committee of Union, were guilty of at least any greater offence, than that which, in the members of the British Convention, was found to be only sedition.

And here, gentlemen, let us attend a little to the evidence regarding the Committee of Union, and the Sub-committee of Ways and Means. The first witness called was George Ross, a clerk in the Gazetteer office, and who kept also a kind of tavern, where these committees were accustomed to meet. Not having been a member himself, he is not certain whether there were two committees, or only one, but that he heard of one called a Committee of Union: that he has seen Mr. Watt, Mr. Stoke, Mr. M'Ewan, Mr. Downie, and Mr. Bonthron, present at those meetings and that sometimes a greater number attended. He mentions that he received from Mr. Stoke copies of a letter from the Corresponding Society at London, which he was directed, and which he did accordingly send by post to Perth, and, as he thinks, also to Paisley and Strathaven; and he adds, that he received these letters from Stoke alone, and does not think any other person was present.

The next witness was William Macubbin, a writer, who was one of the Friends of the People, and a member of the Committee of Union. He was present at the British Convention, and describes in what manner they were dispersed, first, by the lord provost, and



afterwards by the sheriff; he says the object of the Committee of Union was, to keep up a connexion between the different societies in Edinburgh for reform, and that he understood the object of the sub-committee to be for the purpose of collecting money, in order to discharge the debts already contracted; to relieve friends of reform in distress, and likewise to defray the expenses of sending delegates to a new convention. He says, it was likewise talked of, that the money collected was to buy political publications; and that another purpose of the committee was, to collect the sentiments of the friends of reform at a distance, so as to know what their views and objects were, some thinking universal suffrage too violent a demand; and a good deal of diversity of opinion prevailing, as to the extent of reform to be sought for.

The third witness, was William Binning, a schoolmaster, a member, and the clerk of a society of the Friends of the People at the Water of Leith. He mentions, that about three weeks after the dispersion of the British Convention, that Water of Leith society met and sent three delegates to the Committee of Union, the object of which was, to carry on the purposes of reform, by an application to parliament. He remembers also, of there being a collector appointed, whose business was, to collect the sentiments of friends as to reform, and to collect money for the relief of Mr. Skirving, and other such persons in distress, and that the money was to be applied by the Committee of Union.

Arthur M'Ewan, the fourth witness, is a weaver at the Water of Leith, and a member of a society there of the Friends of the People. He mentions his being one of the delegates sent by that society to the Committee of Union, and that he attended the meetings of that committee in the house of George Kemp. He mentions, that this Committee of Union chose a sub-committee of seven, and that these were Mr. Stoke, Mr. Burke, Mr. Watt, Mr. Aitcheson, Mr. Downie, Mr. Bonthorne, and himself, and that the business of the sub-committee was, to get money to pay their debts, and to assist Mrs. Skirving, and other friends in distress.

The fifth witness, is William Bonthorne, a schoolmaster, and a member of the society of the Friends of the People at Broughton. He mentions that this society sent delegates to the Committee of Union, and that he was one of them.—He was likewise one of the sub-committee of seven, and his account of all this, being in substance the same with that of M'Ewan and the other witnesses, I need not detail it. But it may be observed, that both this, and the other witnesses mention, that Mr. Downie, the prisoner, was understood to be, and acted as treasurer for the Committee of Union, and, that whatever money was to be collected, was to be under the direction of that committee.

In the course of the examination of these  
VOL. XXIV.

witnesses, you would perceive, gentlemen, that the prosecutor put his questions in such a manner, as to show that he meant to lay a great deal of weight upon the circumstance of its being an object of these committees, to collect money; but I think I can most successfully meet him upon that head; and when you shall fairly consider the evidence, I am confident, gentlemen, that you will be of my opinion.

I believe you will readily admit, that the collecting of money might either be criminal, or, on the other hand, perfectly innocent, according to the purpose for which it was intended. You know very well, that for a number of years past, the object of obtaining a reform, has been pursued by many societies, in many different parts of the country, and while it is pursued by regular, peaceable, and constitutional means, there can be no room for any blame or censure. Men may differ in opinion as to the necessity of reform, but their right to seek it in a legal way cannot be questioned. In order, however, to carry through, and to support the fair and legal applications for this purpose, a fund is requisite for defraying the unavoidable expense; and accordingly, ever since the idea of a reform has existed, there has not been a society for that purpose, in any part of the kingdom, that has not collected such small sums, as they were severally able to contribute, for bearing their share of that expense; and it will not surely be said, that in doing this, there was any thing either criminal or improper.

But you will, perhaps, be told, gentlemen, that in this Committee of Union, the collecting money could be for no such fair and blameless purpose, and that parliament having rejected the applications for reform; and afterwards the British Convention at Edinburgh having been dispersed by the civil magistrate, so this subsequent meeting, under the name of a Committee of Union, could not have in view to collect money for any just or legal purpose.

I must confess, gentlemen, that I do not in the least feel either the justice or the force of this reasoning. The rejection by parliament could not in the least degree, prevent nor render illegal, a renewal of the application in a constitutional way. Are these people to be held criminal for thinking that they were at liberty to apply again to parliament for a redress of those grievances, of which they thought they had reason to complain? Nay, farther, if they should have thought that an application to the House of Commons was in vain, what was there in law, to hinder them to petition the king? What is there to hinder any subject or set of subjects in this realm to petition the king, if they do so in a dutiful and loyal manner? I hold it as an inherent principle in our constitution, and I will maintain it to be the unquestionable birth-right of every British subject, to go to the foot of the throne, and dutifully to peti-



tion his sovereign. This has been mentioned as one view which these meetings had; and will it be said, that this could be criminal? Can any one presume to blame this? Or to say, that a petition to our most gracious sovereign is to be interpreted into a design to compel and coerce him, or to be construed into a treasonable purpose?

We are told, indeed, that a reform was but the ostensible pretext; and that while these societies and meetings held out, that they were to support the constitution, as established in King, Lords, and Commons, yet all this was no better than a mere disguise, and that at bottom, nothing else was meant, but to pull down the king, and destroy the constitution. I cannot believe, however, gentlemen, that sitting as a jury, you will think yourselves entitled to form any such conclusion, in the face, and directly against the plain meaning of words, and the fair expressions of these declarations. If there truly was any such wicked purpose, it could only be in the secret minds of a few wicked men, enemies of their country: and I am confident, you will not, for a moment entertain the belief, that those numerous persons who composed these different societies, were acting throughout under a mask, and had nothing else in their view, but the overthrow of the constitution and government of this country. I will be bold to say, you are not warranted, and cannot, in good conscience, allow yourselves to give effect to such an idea, nor to put so harsh and unfair a construction upon the intentions of the friends of reform, in opposition to their own clear, explicit, and solemn declarations.

And, in order to be completely satisfied of this, I must request you will attend to the evidence you have this day heard, as to the amount of the money collected by this committee of Union. All the witnesses mention, that it was exceedingly trifling, and that it consisted chiefly of a few pence, paid at the meetings by the different members. William Bonthron in particular, says, that very little money was collected, and that the whole object of the collection was, for discharging some trifling debt already contracted; and that after paying this, the rest was to be applied for relieving Mrs. Skirving, who was in a very necessitous situation after the banishment of her husband; and for defraying the expense of sending a delegate to a new convention. The very largest sum, if it can deserve the name of large that at any time came into the hands of the committee or their treasurer, was 15*l.* sent from Perth by Walter Millar, whom you heard examined as a witness; and he tells you, that it was collected, and sent solely for the purpose of obtaining a reform in the constitution of parliament. All the rest, it seems, that was collected, does not appear to have exceeded a few pounds; and this, gentlemen, was the mighty fund that was to furnish the means of overturning the state. The idea indeed is completely ridiculous. It was evi-

dently a collection for no other purpose whatever, than to defray the little incidental expenses attending their meetings, and for giving some little aid to some of their friends in distress, such as the wife of that unhappy man Skirving.

That was the utmost extent to which it went: and you will attend also, gentlemen, to the description and situation of those persons who were to overthrow the constitution by force and by arms. Who were the persons that you are to suppose, were carrying on this daring and criminal design?—You have seen them before you this day; and I fancy you will admit, that they were, for the most part, of as low and poor a description as ever were produced in any place whatever. Where then was the money to come from? It could not be from these poor people themselves; and therefore, you have no alternative, but either to suppose that they had here some secret and unknown fund, or that a supply was to come from England or from France; or you must conclude, that no treasonable design was ever seriously in view, and that the whole has been a mere imagination and chimeras.

Had it been discovered, that these people had considerable sums in their hands, or had it been traced out that they had supplies from some other quarter, or in short any fund that could look like bringing about so great an object as overturning the constitution, there might at least be some better colour for supposing such a design. But it is admitted, that there is not the least reason for supposing that they had any fund, or any supply, excepting what they collected amongst themselves; and when you see how very trifling, paltry, and inconsiderable this was, I presume you will have no hesitation in being fully satisfied, that it could never be collected for the purpose of overturning government, and that it could never be meant for any thing else, than for carrying through the object of reform in a fair and constitutional way.

I cannot quit this subject, without taking notice of a curious circumstance, which could not escape your attention; I mean, the person who, we are to suppose, was employed as the ambassador of this Committee of Union, to travel over the country in order to form associations for overturning the state. You have seen this same ambassador, Mr. John Fairley, and you have heard him examined, and from his situation in life, his appearance, and his demeanour, you will consider how far he is such a person as would be entrusted with so important a negotiation? This great man is sent out as their missionary, and he travels on foot to Stirling, to Glasgow, to Paisley, and a variety of other towns, in order, as it is said, to form that combination which was to carry into effect this great enterprise, of seizing the judges, the castle, the banks, and the other public offices in this city, and to overwhelm King, Lords and Commons in one common ruin.



And what was the recompence given to this confidential minister, this negotiator, who was sent through the land, in order to achieve such mighty things? Why, gentlemen, you have it in evidence, that it was no more than fifteen shillings sterling! Surely the cheapest embassy of which diplomatic history can furnish an example. He goes from place to place, from society to society, to accomplish the overthrow of this mighty empire, and for all this perilous negotiation, and most arduous undertaking, he in return receives,—What?—The enormous reward of fifteen shillings!

And if, gentlemen, you could go into so foolish an idea, as to suppose, that such a person could be employed on such a mission, and for such a recompence, can you for a moment conceive it possible, that the Committee, if they themselves had entertained such wicked and nefarious designs, could be so mad and so absurd as to entrust to him so important and dangerous a negotiation? It is indeed too ridiculous to admit, even for a moment, of your belief; and affords only an additional demonstration, that the sole and only purpose, which the committee had in sending Fairley was, to collect the sentiments of the Friends of the People as to the extent of reform in which they would agree, and to obtain some little pecuniary aid for carrying it through.

I come now, gentlemen, in the third place to consider the plan of seizing the Castle, the banks, and other public offices in this city; and which is held out in the indictment, as an overt act of compassing or imagining the death of the king. It is unnecessary for me to recount to you what were mentioned by the witnesses to have been the different objects of this plan; for you have heard how they described it. Whether the prisoner at the bar had any accession to it, I shall afterwards consider; but in the mean while, as to the plan itself, I am sure you will agree with me in thinking, that it is one of the most wild, absurd, and impracticable schemes, that ever entered into the mind of even the most visionary projector, and could never seriously have been entertained by any man of common sense and understanding.

It is impossible, indeed, to understand or make any sense of this plan. A fire was to be raised in one part of the city; and this was to bring the soldiers out of the Castle. Then a force was to run in and seize the Castle, then the banks and public offices were to be seized, and then, in short, the whole government.—But, gentlemen, Where were the people that were to do all this? Have you any evidence that there was a force ready to rise, in order to accomplish it? Does ambassador Fairley give you such an account of his mission, as to induce you to think, that he had got any probability of a concurrence to such a design? No, his account is the very reverse, And where, then, was the force to come from, by which the Castle was to be seized, and all

this marvellous plan executed, whereby the government of this country was to be taken by surprise? It was to come from nobody knows where—and to be done by God knows whom. This is really so completely ludicrous, that it puts one in mind of Mr. Bayes in the play, who first conceals an army at Knightsbridge, and then brings it to the door in disguise. In short it is a mere phantom, gentlemen; the mere dream of panic-struck minds. It is a scheme so whimsical and romantic, that it never could exist in the mind of any person whatever, unless, perhaps, in the dis-tempered brain of the unhappy man Watt, who was condemned in this place yesterday.

Nay, I do not even believe, that it was ever seriously entertained by him: and I must be allowed to form a conjecture, which appears to me by no means unsupported by proof. You see, gentlemen, this Mr. Watt, in the end of the year 1792, and during a considerable part of the year 1793, going to the lord advocate, and to Mr. Dundas, the secretary of state, with a view to give them information of plots and dangerous meetings in this country. You find him giving an account of plots, which never had an existence, and giving information of the disaffection of troops, where no disaffection had ever prevailed. In short, you find him creating imaginary plots, in order to give himself consequence and to obtain money.

Having been unsuccessful in these attempts, and still desirous of pursuing the same object, he writes to the secretary of state, and likewise to the lord advocate, pretending that he wanted 1,000*l.* for a man who could make a discovery of great importance. I presume, gentlemen, you will be satisfied, that if there had been any such important discovery to be made, Mr. Watt would not have failed to bring it to light or to produce or point out the person who could disclose it. But the whole was a downright fiction; for neither the plot nor the man existed, nor were ever more heard of; and Mr. Watt finding that he could neither obtain the 1,000*l.* nor get some post, which it appears he had likewise solicited; and finding all his efforts ineffectual and abortive, he then goes and connects himself more closely with the Friends of the People; and I do believe, that if he had known or found any persons seriously adopting this ridiculous scheme of seizing the Castle, &c. he would have gone to the lord advocate, and have said, "Here is the important discovery I mentioned to you, and I hope I shall now obtain my reward."

In short, gentlemen, I leave this conjecture to your consideration; but, for my own part, I cannot help thinking, that this wild and ridiculous plan was never even seriously thought of by Watt himself; and that he was merely trying to draw weak and ignorant men into a seeming adoption of it, and then to make a sacrifice of them to his own sordid and avaricious views.

But, gentlemen, I have really no occasion



to inquire, what were the views and intentions of Mr. Watt in this scheme; for unless you can connect Mr. Downie with the plan, it does not signify what it was; and you will therefore consider, whether there be any evidence to bring it home to him, or to show that he had any accession, or gave any approbation to it.

There are only two witnesses who say any thing as to this, and these are Arthur M'Ewan, and William Bonthronne, both of them members of the Sub-committee of Ways and Means; and who were both present, upon the single and only occasion when this plan was produced by Watt. They describe very particularly every thing that passed at that time. They mention, that it was not a regular meeting of the committee, which met only on fixed nights of the week; nor was it held at the house of George Ross, where they always met. It was an accidental meeting at the house of Watt himself, who had asked them to come and take a glass with him, without the least notice or intimation, of his having any such plan to bring under their consideration.

Now, gentlemen, there is one circumstance here to be remarked, and upon which more depends than you may at first be aware of, and which is, that there is not only no evidence before you, there ever was the smallest notice previously given, that at this meeting in Watt's house, any such plan was to be proposed; but you have clear evidence to prove the very reverse. They met there, either for conviviality and pleasure, or at least for no other business than answering or writing some letters respecting the cause of reform.

At this meeting, the company consisted of Mr. Stoke, Mr. Downie, Mr. M'Ewan, Mr. Bonthronne, and Watt himself; and while they were drinking their glass, Watt goes to a cabinet, and takes out a paper, which he brings in his hand, and reads to them, without any preface or previous notice, and without any of them, or, so far as appears, any person else, having ever heard of it before. I say there is no evidence, nor even an attempt to prove, that any of the company ever did hear of it before; and if there is no evidence that they ever did hear of it before, you are most certainly bound to hold, that they never did.

In this manner, you have the paper containing this strange plan, brought out by Watt from his cabinet, and read by him. Whether it was of his own hand-writing or not, does not appear; but it seems to have been understood to be his. Now, gentlemen, observe what passed. Did Mr. Watt enter seriously into a discussion of this plan, in order to show the practicability of it, to explain where they might get money or numbers to support it, or to suggest those different means by which it might be accomplished? No. Not a single syllable of any such thing,

but all at once, he produces this mighty plan, and reads it, not at one of the usual meetings of the committee, but at an accidental meeting at his own house. If he seriously wished for the approbation of the committee, any man in his common senses, would not have brought it forth in this extraordinary and unexpected manner; but would before have had it in his pocket, and have sounded every member individually, previous to his producing it to the whole, assembled together.

And you will particularly remark, what the two witnesses, Arthur M'Ewan and William Bonthronne, tell you as to what then passed. M'Ewan says, he immediately objected to the plan; and that Bonthronne backed him, but that Downie said nothing, so far as he remembers, nor Stoke.

This is what M'Ewan says; but Bonthronne mentions more particularly, that upon hearing the paper read, M'Ewan said, he could not approve, nor go into any plan that was to create confusion, and to shed the blood of his countrymen. And Bonthronne, as he tells you himself, was so struck with the thing, that he had scarce power of recollection any farther than to second M'Ewan, by saying, No, no; by no means. He farther tells you, that neither Mr. Downie nor Mr. Stoke said a single word upon the subject, but were perfectly silent. And both M'Ewan and Bonthronne agree in this, that there was not a word farther passed. Mr. Watt, finding the paper thus disapproved of, took it away without any thing more, locked it up in his cabinet, put the key in his pocket, and said not another syllable upon the subject.

This, gentlemen, is the fair amount of the evidence of M'Ewan and Bonthronne; and upon the account they give, which is the only one you have of what then passed, I think you are not only to put the natural and just construction, but I think you are bound to put the construction most favourable for the prisoner at the bar. Let me suppose, that this had been a regular meeting of the committee, and this paper or plan was brought forward by one of the members, after which, without being supported by any body, it is instantly opposed by another member, and his objection immediately seconded. Now, here then is a meeting consisting of five, one of whom makes a motion, which, instead of being seconded, is immediately opposed, and that opposition as immediately backed. The other two members remain silent; and what is the conclusion to be drawn from their silence? Is it not plainly and unequivocally this, that they do not support the original motion, but concur in and approve of the opposition to it?

Had not Mr. Watt, the mover of the business, fully understood this to be the case, he would have called for their opinions, and if they had concurred with him, he would have had the majority. But he either was not at all serious, or at least found he could get no

support; and, therefore, without any thing more, he replaced the paper in his cabinet, and said not another word upon the subject. Nay, farther, had not Downie and Stoke totally disapproved, we should have found them arguing in support of the scheme, and combating the objections of M'Ewan and Bonthrone, whereas they at once acquiesce, and Mr. Watt standing single, the scheme was totally rejected.

You will also attend to this, gentlemen, that this plan was never again brought forward by Watt at any other time, nor upon any other occasion. It never had been heard of before, nor was it ever heard of after; and Bonthrone has told you, that he never conceived it as a plan proposed in a serious way, but considered it as a kind of frenzy; and he adds, that the committee never would have adopted such a plan. In short, this ridiculous plan never made its appearance, excepting upon the single and solitary occasion which has been mentioned; and then Mr. Downie, in place of acceding or giving any support to it, did, on the contrary, acquiesce and concur in its absolute rejection.

And here, gentlemen, I must be pardoned for troubling you with reading one other passage from Mr. Justice Foster, because it is exceedingly applicable to the particular now under consideration. It is, where he is speaking as to what the law holds an assent to any overtures for compassing the death of the king.

He says, "If a person be but once present at a consultation for such purposes, and conceal it, having had a previous notice of the design of the meeting, this is an evidence proper to be left to a jury of such assent, though the party say or do nothing at such consultation, the law is the same if he is present at more than one such consultation, and doth not dissent or make a discovery; but in the case of once falling into the company of conspirators, if the party met them accidentally, or upon some indifferent occasion, bare concealment, without express assent, will be but misprision of treason."

From this you see, that the circumstance of a person being once present at a treasonable consultation, and there neither saying nor doing any thing, does not fix a crime upon him, unless he had previous notice of the design of the meeting; but if a person be present a second time at such consultation, he is held to be himself guilty, unless he doth expressly dissent or make a discovery. The law therefore is, that the being only once present at such a meeting, without there giving any express assent, does not infer the crime, unless he had previous notice of the purpose of the meeting; and I am sure you will be under no difficulty of applying this to the circumstances of the present case.

You have most satisfying evidence, that no previous notice, nor intimation, nor even hint of any kind, was ever given either to Mr.

Downie or any one else, that such a plan or paper was to be brought before them. It was never heard of, nor mentioned before, but Watt brought it out upon them by surprise. Nay, farther, gentlemen, I do not think that the matter rests merely upon Mr. Downie's having given no assent; for it is perfectly clear, that he did actually dissent, as, instead of giving any countenance or support to the plan, he at once acquiesced in its rejection. When in any meeting, a proposal or motion is made by any member, and not seconded by any body else, it is presumed to be rejected by all the rest, even although none are at the trouble of speaking in opposition to it; but when it is actually opposed, and that opposition seconded, then, if nobody supports the mover, the conclusion that all the rest concur in disapproving of the motion, is certain and infallible. And together with all this, you will remember what an idle, absurd, and ridiculous plan this was, not meriting any serious attention, but, as I think, brought forth by Watt, with the treacherous design of inveigling and ensnaring others.

I might here offer some remarks upon the evidence of John Fairley, by which, there was some attempt made to connect Mr. Downie farther with the absurd plan of seizing the Castle; but I shall reserve saying any thing as to this till afterwards, and shall now beg leave to go to another point, and which is, the making of the pikes or arms, those horrible weapons which you had this day exhibited to your view, and cannot be presented, without impressing the mind with horror and indignation at those who could be employed in such a business.

And here, gentlemen, I am sure I need not tell such intelligent persons as you are, that in trying the present case, you are carefully to divest your minds of every prejudice, and to lay aside every impression that may have arisen from your hearing of, or from your beholding these weapons.—There are many rumours, also, which you may have heard without doors, and many an account of atrocious plots, that never had an existence. It is difficult, I know, to guard against the influence of such prepossessions; but, on that account, it becomes only the more your duty to be watchful, and to permit nothing but the evidence you have heard this day, to enter into your mind, when you are entrusted with the life of your fellow citizen.

In what I am thus taking the liberty of saying, I am only following what was much better expressed by the honourable judge, who presides in this court, and who, in his excellent and candid charge to the grand jury, told them, they were not to allow any prepossessions, nor any extraneous matter whatever, to impress their minds in the smallest degree, but to throw aside all prepossession, and to consider singly and only the evidence that was brought before them. This was the wise caution the honourable judge gave to the



grand jury, and I hope I shall not be thought doing wrong, in endeavouring to impress it upon your minds. The grand jury had nothing more to do, than to consider whether there was sufficient ground for sending the matter to trial; but you, gentlemen, have a much more important charge, for you have now the life of the prisoner in your hands, and, in discharging that most momentous duty, you must, and I am sure you will, be careful to let nothing enter into your consideration but the evidence brought before you.

With regard to the circumstance of making these arms, I will endeavour to state to you the substance of the evidence; and I trust I shall do it fairly. The first witness is William Orrock, a smith, who was a member of the society of the Friends of the People, at the Water of Leith, and one of their delegates to the Committee of Union.

He gives you a history of these pikes from the beginning, and mentions, that being one day in some place reading the newspapers, somebody there said, he heard arms had come down for the Goldsmiths-hall gentlemen. Upon this, some other person said, they should apply also for arms; but thereupon, Mr. Watt, who was present, said they would not get them, but that he knew no law in existence to hinder them from getting arms for themselves. Orrock mentions, that then the conversation turned upon the report of an invasion, and said he thought he could make a weapon for himself.—There the matter seems to have dropped, but Orrock tells you that sometime thereafter, he did make a weapon for himself.

Orrock next tells you, of his being one day sent for by Watt to come and speak to him in the house of Arthur M'Ewan at the Water of Leith, and he then told Watt what kind of weapon he had made. Upon this, Watt said, a different one would be better, and accordingly Orrock made one agreeable to Watt's directions. After this, he brought up both that which he had made for himself, and that which he had made for Watt, to the house of George Ross where the Committee of Union usually met. He says he did not show them to the Committee of Union, but that there was another room where others were met, and where he says Downie was present. To this company he showed those weapons, and somebody made a drawing of an improved form, and he says he was desired, and as he thinks, both by Watt and Downie, to keep that drawing in his view in making any more. He next tells you, that after he had left the room, and before he quitted the house, Watt came to him, and repeated the same directions, and that Downie was then along with Watt; and he farther says, that afterwards Watt came to him at his own house, and desired him to make towards three dozen of them.

The next witness was William Brown, likewise a smith; and he tells you, that, by the orders of Mr. Watt, he made fourteen pikes of

one kind, and one of another kind, and brought them all home to Watt. Upon asking payment, Watt said, he was sorry he had not money then to give him, but the witness mentioning that he needed money at the time, Watt said, that although he had not then money himself, he would get it from another person, and accordingly he wrote, and gave him an order upon Downie for the money, which was 1*l.* 2*s.* 6*d.* This order did not in the least mention what the money was for, and when Brown went to Downie and got the money, he tells you, that he did not say a single word to Downie as to what the money was for, nor did Downie ask him. It was an order in the same way, as if Watt had been borrowing the money from Downie.

The third witness is Margaret Whitecross, who was maid servant in Downie's house last winter and spring, and she tells you, that one morning she saw in her master's dining-room, something, which the prosecutor would have you suppose was one of those pikes. She says, that the night before, her master had been abroad at supper, and was rather late of coming home. With a candle in her hand, she opened the door and let him in, but she does not say that she perceived any thing in his hand, although, surely, one of those pikes was not a thing that could be hid from a girl's eye with a candle in her hand. Next morning early, she goes into the dining-room, and there she sees something lying, which she neither touched, nor took in her hand, nor hardly ever looked at; and Mr. Downie's son came out of an adjoining closet, when he heard her in the room, and took the thing away. She says, she heard her mistress afterwards call it a dividing-knife. But she never saw it either before or after the time she mentions, and saw it then so very slightly, that she is exceedingly indistinct in her account of it. She was asked whether it was like any of these now lying upon the table, and all that she could say was, that it might be like it; although, gentlemen, none of these have any resemblance to a dividing-knife; and indeed they are so peculiar in their appearance, that if what she saw in her master's dining-room had been one of them, she could not have forgotten it.

Now, gentlemen, you will consider whether this can fairly be held, as fixing upon Mr. Downie any connexion with those pikes: she does not pretend to say, that she saw Mr. Downie bring it home, nor did she ever see him have it in his hand, nor can she say that he ever knew of such a thing being in his house. Can you believe, that if it had been one of those pikes, Mr. Downie would have been so imprudent as to have left it in the open dining-room? And if it had been one of those pikes, would Mrs. Downie have ever given it the name of a dividing knife? a thing to which they do not bear even the most remote degree of resemblance. Nay, farther, if Downie's house had been a place for secret-



ing and concealing these weapons, it is not to be doubted, that a number of them would have been found there; and yet, gentlemen, you have the most satisfactory evidence, that although a strict search was made, not even one was found there.

Lockhart and Middleton, the two sheriff-officers, have been examined as witnesses, and they both agree that none of the pikes were found in Downie's house. Middleton, in particular, says, that the search in Watt's house was made upon Thursday, 15th May, between twelve at night and one in the morning; and that the search in Downie's house was made the very next day; and although they found pikes in Watt's house, they found none in Downie's. Is it likely, then, gentlemen, that Mr. Downie should have been possessed of those weapons, and yet not so much as a trace of their being either about him or in his house?

Brown tells you, that all those which were made by him, he carried home to Watt. Those again made by Orrock, were seized while they were still in Orrock's own possession. The sheriff-officers tell you, that although they made the strictest search, yet they could find no such thing in Downie's house. Excepting, therefore, the loose and indistinct evidence of Margaret Whitecross, the maid-servant, you have nothing, gentlemen, that give room even for a suspicion that any one of them ever was in his house; and she, not only speaks of what she saw, as a thing totally unlike those pikes, but she does not pretend to say, that she ever saw Mr. Downie bring it home, nor take it away, nor, in short have any connexion with it whatever.

Besides, you know very well, that goldsmiths, like Mr. Downie, generally have a smelting furnace in their own house, and nothing is more usual for them than to have old swords and pistols, or other such arms, from which they take what metal they find of any value. Why, therefore, might not Mr. Downie most innocently have some old weapon in his possession, which might be, what this ignorant maid-servant alludes to, as being like a dividing knife. Why upon so inaccurate and indistinct a description, are you to conclude that it was actually one of those pikes? There are many persons who have curious collections of arms, guns, swords, pikes, and daggers, and it would be hard and strange, indeed, to conclude from thence, that they had them for a treasonable purpose.

In short, gentlemen, I think you can lay no weight whatever, upon the vague evidence of this ignorant girl; and as to the only two other witnesses, Brown and Orrock, it must be perfectly evident, that neither the one nor the other bring home any thing criminal to Mr. Downie, and indeed the evidence of Brown does not touch him, even in the smallest degree.

Brown tells you, that it was Mr. Watt alone who employed and directed him to

make these pikes, and that no other person ever spoke to him upon the subject. He made them for Watt, and when they were made, he carried them home to Watt. Downie was not present when the order was given, nor is there the least reason to suppose that he knew anything at all of the matter. As to the circumstance of Brown's receiving payment from Downie, you have heard how it happened. Watt, not having the money when Brown pressed for it, gave an order upon Downie for it; but that order did not express what the money was for; and Brown expressly tells you, that he neither told Downie what it was for, nor did Downie ask him. In short, it was nothing more than the trifling sum of 1*l.* 2*s.* 6*d.* which Downie advanced for Watt, without inquiring or knowing what it was for; and you have no reason to suppose, and still less any right to conclude, that Downie knew the money he thus advanced was for making pikes.

Any thing said by Brown, therefore, does not, in the most distant degree, affect Mr. Downie; and, as I have shown that the evidence of Margaret Whitecross ought to be totally disregarded, so there is nothing else remaining as to these pikes but the single testimony of Orrock, the smith, who says he made towards three dozen of them for Mr. Watt, and who, you will remark, having been thereby an accomplice in that business, is now a prisoner in the Castle of Edinburgh, and comes before you under the character of a *Socius Criminis*.

I have already stated to you, gentlemen, the substance of what this Mr. Orrock says, and you will judge what degree of credit you can give to his evidence. The making of the arms at all, seems to have originated from himself, and from an idea, that other people, as well as the Goldsmiths-hall gentlemen, were entitled to have arms in case of an invasion. He accordingly made one for himself; and the intercourse afterwards about making more was entirely between him and Mr. Watt. As to his afterwards bringing up two to George Rose's, and showing them there one evening in a company where Mr. Downie was present, you will remark, he does not say that he had been desired to do so, nor that he had any sort of orders for these pikes, either from the Committee of Union, or from the Sub-Committee of Ways and Means. Indeed, you have not the least evidence, that either of those committees did ever authorize any such thing, or know any thing about the making these weapons; and you have not only no evidence, but you have not even the shadow of reason to suppose, that Mr. Downie ever heard of, or knew any thing about the pikes, till they were accidentally brought in the way I have mentioned, and shown to the company in which he happened to be at Ross's.

The circumstance of some one in the company taking out a pencil, and sketching a better form, might just as readily be from



amusement as from any thing else; and the desiring Orrock to keep that sketch in his view, might easily happen in the same way. It is certainly no material circumstance against Downie, that he should chance a little while after, to be in a passage in Ross's house, when Watt repeated something of the same kind to Orrock; and it is of great importance for you to remark, gentlemen, that, excepting upon this single occasion at George Ross's, there is not so much as a word in the evidence, either of Orrock, or of any other witness, which can tend to show that Mr. Downie gave any orders, had any concern, or knew any thing whatever regarding those pikes. In short, if you are to fix any guilt upon him as to this business, it must be founded on the solitary testimony of this Mr. Orrock, swearing to casual words passing at a tavern meeting, where Mr. Downie happened to be present.

You will also have it in your view, gentlemen, that the law does expressly require either two lawful witnesses to each overt act, or one of them to one, and the other of them to another overt act of the same treason. Now, even supposing, that this circumstance as to the pikes, could be held an overt act of the treason here charged, which I trust I shall show you it cannot be; and if you are satisfied also, that Orrock is the single and only witness, whose testimony tends in the least degree to affect Mr. Downie, then I maintain, that this is not such evidence of an overt act, as the law demands. He is but a single witness, and I am sure he cannot be held a lawful or unsuspected witness, because he is, by his own confession, an accomplice, or *socius criminis*; and if the gentlemen on the other side should tell me, that one witness is sufficient to prove this overt act, because there are other overt acts proved by other witnesses, I give them this clear and satisfactory answer, that I flatly deny these other particulars to be in any degree such as can by law be held overt acts of the species of treason which is here charged, of compassing or imagining the death of the king. I flatter myself that I have already satisfied you of this; and, if I have, then this as to the pikes, even supposing it an overt act, which I shall immediately show you it was not, it rests solely upon the evidence of Orrock, a single witness, and one very far from being beyond suspicion.

And here, gentlemen, permit me to entreat, that you will calmly consider this business as to the pikes, and not let your minds be impressed by their frightful appearance, nor be hurried away by supposition and conjecture. Take every circumstance into your view, and then let me ask, If you can really conceive, that, in making these pikes, there could be any serious object or purpose of overturning the constitution? Who were to use them? Had the Committee of Union adopted them? By no means. For McEwan and Bonthron

not only say no such thing, but they in direct terms tell you that they never heard of arms. Did either the Committee of Union or the Sub-committee, know of the making these pikes, or order them? No, they knew nothing of them.—You have not only no evidence of their knowing of them, but you have evidence that they did not.

If evidence had been brought before you, gentlemen, that these committees had explicitly resolved to levy war to overturn the government, and, in pursuance of this, had ordered these pikes or other arms to be prepared, there might then have been at least some better colour for the charge. But, gentlemen, you have no such proof before you; and, on the contrary, the very members of these committees who have been examined as witnesses, do expressly swear, that they had no hostile intentions, and that they gave no orders for arms, nor knew of any being prepared; and if this be the evidence, are you to give way to mere suppositions and conjectures? are you at liberty, gentlemen, to imagine and fancy plots and treasons without proof, and to presume these weapons intended for a wicked purpose, without so much as evidence that any such wicked purpose, was ever formed?

Consider also, I pray you, what was the amount and number of the pikes that were made? Towards three dozen were made by Orrock, and about fourteen by Brown. In short, the number of the whole did not exceed fifty; and where was the fund to defray the expense of making more? Watt had not money to pay even the fourteen made by Brown; and as to the money belonging to the committees, you have seen that it was not only trifling and scanty, but farther, that the committees had no concern with these pikes, and never either ordered or knew any thing about them. It was Watt, and Watt alone, who ordered them; and it seems to have been, from beginning to end, one of his own wild incoherent absurd chimeras, or very likely, a treacherous and perfidious design, to forward his own avaricious views. Even if he could have got funds for making a greater number of these pikes, he neither had nor could have got persons who would use them towards any hostile purpose; and to suppose, therefore, that these pikes could be prepared for the criminal and wicked purpose, of overturning the constitution of Great Britain, is as ridiculous and extravagant, as to imagine, that his foolish and unmeaning plan of seizing the Castle was ever seriously entertained.

Having said so much as to these pikes, there is another particular as to which you had a number of witnesses examined, and which is the advertisement respecting the Fencibles. At the same time, I do not think it necessary for me to trouble you, with saying much upon it. You will remark that there is no mention whatever of it in the indict-

ment; and yet, by the statute of king William, it is in the most direct terms enacted, "That no evidence shall be admitted or given of any overt act, that is not expressly laid in the indictment against any person or persons whatever."

It is perfectly clear, therefore, that this cannot be admitted nor founded upon as an overt act, because it is not laid nor mentioned in the indictment; and indeed, a moment's reflection must at once satisfy you, that even if it had been set forth in the indictment, the very circumstance itself could never come under the description of an overt act of the treason charged. Indeed, I think it was most improperly introduced by the prosecutor and it ought to meet with no regard or attention from you.

As to the paper itself, you heard it read, and it certainly was of an improper nature, and such as I cannot by any means seek to justify; but improper and even criminal as you may view it, you will consider, in the first place, how far it is brought home to the prisoner, and, in the next place, what offence it amounts to? You have no evidence, nor indeed has it been attempted to be proved, that Mr. Downie was the author of it; and as to his having any concern in dispersing a few copies of it, I am sure that this, however improper, cannot with any reason be connected with a charge of compassing the death of the king. To seduce any of his majesty's forces from their duty, is certainly criminal; but it cannot, in the eye of law or of common sense, be deemed high treason. I am confident, gentlemen, you will consider the matter in this light, and will throw this particular entirely out of your view.

I had almost forgot to take notice of the evidence of John Fairley, the gentleman whom I had occasion to mention to you formerly, as the ambassador sent through the country, by the sub-committee of Ways and Means; but I do not think it will be requisite for me to detain you with many observations upon what Mr. Fairley says.

He in substance tells you, that he was going upon a visit to his sister, who was maid-servant in a gentleman's family in Stirling-shire; but, whether that was the real intention of his journey or not, is of no consequence. He was employed, at the same time, to visit the friends of reform in different places, in order to know what were their sentiments; to inquire whether the cause was prospering or decaying; to know who were attached to it; to learn what correspondence might be kept up, and what money might be expected. These were the sole objects for which Mr. Fairley was employed by the committee; and from what you saw of this same ambassador, I cannot doubt you will be satisfied, that if any thing really criminal had been in the view of the committee, he was not the person, whom they would have chosen to entrust with such a negotiation. Nay, even if the

VOL. XXIV.

committee had been so absurd, I do not think the Friends of the People at a distance, would have been so wanting in common sense and prudence, as to have committed themselves to him, or to have entrusted him with any treasonable secret.

But, while the inquiries I have mentioned, were all which the committee had in view; yet it appears, from what Fairley says, that he received some other instructions from Mr. Watt, and I beg you will attend to the manner in which these were given him. From the committee he received no other instructions, but to make the inquiries I have already mentioned; and, indeed, the committee had no other object in view. It was a perfectly fair object; for it had no other intent than carrying on the cause of reform, in a legal and constitutional way; and Fairley was to get from Mr. Downie thirty shillings of the money belonging to the committee, in order to defray the expense of his journey. Thus far, the matter was the business of the committee; but Mr. Watt desired Fairley, before he should set out, to call at the shop of one Mr. Campbell, where there would be lying for him a parcel which he was to carry along with him. Fairley accordingly called at Campbell's, and having got the parcel, set out on his journey.

I think Fairley said, that Watt desired him not to open the parcel, till he should come to Stirling, or some other place, and accordingly Fairley obeyed this. When, however, he did open the parcel, he found there a paper of instructions written by Watt, and which mentioned the foolish plan about seizing the Castle, and other things of the like kind. This paper of instructions, however, had never been read to, nor seen by the committee, but was entirely the operation of Mr. Watt alone. From what Fairley says, and from the evidence of Dr. Forrest, you see how little encouragement any such wild plan met with from the Friends of Reform at Stirling; and, indeed, they seem to have been spoken of there only in the slightest manner; for Dr. Forrest tells you, that Fairley expressly said, the purpose for which he had been sent by the committee of Edinburgh, was in order to collect some money for Mrs. Skirving, and other friends that were in distress.

From Stirling, Mr. Fairley proceeded to Glasgow, Paisley, and other places, and then returned to Edinburgh. When he came to town, he went first to his father's house, and then went to the committee, it happening to be a night on which he knew they usually met. When he went there, he found Watt, Downie, and McEwan. I do not recollect if he mentioned any body else; and you will particularly remark what then passed. Had the paper of instructions been given to him by the committee, or by authority of the committee, surely the first thing would have been for them to inquire what he had done; and he would have

M



mediately pulled out the paper from his pocket and have given a full account of the success of his negotiation. In place of this, what happens? He tells them, that he found the friends of reform in general, hearty; and he mentions every thing he had met with respecting the objects which the committee had in view; but, instead of producing the paper of instructions, which he had received from Mr. Watt, he keeps it snug in his pocket, never brings it out, nor says a single word about it, during the whole evening. Nay, farther, he tells you, that he never produced them to the committee, either then or afterwards, but, in a day or two after, gave them to Mr. Watt himself.

Nothing surely can more clearly demonstrate, that the committee had no knowledge of, nor any concern with these secret instructions. They were purely and solely the operation of Mr. Watt himself; and as they came from, so they were given back to him alone, without the committee knowing any thing about the matter. In questioning the witness indeed, a good deal of weight was attempted to be laid upon the circumstance of this paper of instructions running in the name of the committee, and also upon the money given to Fairley being out of the funds of the committee; but I am confident you will at once see that there is nothing in this.

Mr. Watt would no doubt choose to make the paper run in that way; but his having chosen to do so, will never make that the paper of the committee, unless there be clear evidence that they knew and approved of it. Now, there is not only no evidence of this, but there is most satisfactory evidence of the contrary. And as to the money, it is perfectly clear, that although given by the committee, yet it was only for the fair purposes which they had in view in sending Fairley, and not for any secret and criminal purposes, such as those of Mr. Watt. It was only thirty shillings, of which Fairley having expended but fifteen, he offered back the remainder; but the committee allowed him to keep it for his trouble.

In short, gentlemen, it is evident, that there were two different purposes, or two separate parts of Fairley's mission, and you ought carefully to distinguish between them. The one was a perfectly fair and a blameless purpose; and it was to inquire what were the sentiments of the friends of reform, and to know what money might be obtained for carrying it on, in a legal and constitutional way? This was the sole object of the committee, and the only purpose they had in sending Fairley. The other was a secret object of Mr. Watt's own, kept totally concealed from the committee, and for which accordingly, they can be in no degree responsible. Mr. Watt's criminal and wicked designs may justly fix guilt upon himself, but can attach no guilt to any other person whose accession to and approbation of it, is not fully and clearly proved. The trifling sum given by the com-

mittee to Fairley, is of itself a proof, that they could not have any thing criminal in view; and you will remark, Fairley expressly swears, that he never heard of the plan of seizing the Castle, &c. from any body but Mr. Watt.

And now, gentlemen, having offered you these observations upon the evidence, I will beg leave shortly to remind you of what I stated as to those principles of law, which apply to the present case, where the crime charged is that species of high treason, the compassing or imagining the death of the king.

It has long been the boast and the glory of the law of England, that of all species of guilt, that of treason has been defined with the most scrupulous exactness. It was for this great purpose the statute of Edward 3rd was passed; and as often as, in succeeding and arbitrary reigns, new treasons had been created, these were again, in better times, repealed, and the law of treason brought back to the standard of that ever to be revered statute. It is the great bulwark of our liberty, and the mighty protection, under the shield of which, the subject is secured against the violence or injustice of state prosecutions.

I stated to you, and I supported it by high and unquestionable authorities, that although a conspiracy to levy war, has in some cases been by construction held to amount to the crime of compassing and imagining the death of the king, yet this has been admitted only in certain circumstances, and a line of distinction has been taken, and the utmost anxiety shown, to prevent the carrying constructive treason beyond due bounds. That distinction has been taken from the object, or purpose of the conspiring to levy war. Where the purpose was such as directly and necessarily to affect the life and safety of the person of the king, it has been held to amount to a compassing or imagining his death. Where, on the other hand, the purpose has been to obtain some reformation, without pursuing the due methods of the law, then the mere purposing or designing to levy war, for that end, has not been held high treason.

This is the line of distinction, and these are the boundaries, which the wisdom of the law has marked out. To transgress these boundaries, and to overleap them, would be to confound the nature of crimes; and would be giving a fatal and irrecoverable blow to the security and liberty of the subject. In the progress of human events, new crimes may spring up, that may seem to merit a punishment greater than the law has yet appointed; but it must ever be safer, to leave the remedying this to the deliberate wisdom of the legislature, than to resort to constructions and interpretations, which, however virtuously intended at the time, must unavoidably open an inroad to arbitrary proceedings, and introduce that uncertainty and confusion, which is itself the subversion of all law.

This very evil, which would in the end prove



the overthrow of all liberty, was anxiously guarded against by the statute of king Edward, which has expressly said, "And because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is accorded that if any other case, supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry without any going to judgment of the treason, till the cause be shown and declared before the king and his parliament, whether it ought to be judged treason or other felony."

With the law thus in your view, it is with you, gentlemen, to consider, whether the facts proved in the present case, do amount to that species of treason which is here charged? Supposing that a conspiracy to levy war, or to raise a commotion, is here actually proved, what was the object and purpose of it? Was it a conspiracy to levy such a war, or such a commotion as aimed directly, or necessarily, at the person of the king? On the contrary, was it not clearly and evidently such a war, and such a commotion, as, at the utmost, could have for its aim nothing more than a reformation, without pursuing the due methods of law? Was there any view or purpose of dethroning or deposing, or endangering the life of our most gracious sovereign? No such thing ever was, nor could be dreamed of.

It is not enough to say, that the commotion if once raised, might possibly have gone such a length, as ultimately to bring the personal safety of the king into danger. There is no purposed opposition nor resistance by force and violence to the execution of any part of the law, which may not, by a strained construction and implication, be connected with the safety of the king. But it is for this very reason, that the law has wisely distinguished between what may be intended against the person of the king, and what may be intended only against what has been termed the majesty, or, in other words, the authority, or executive power of the crown. The former has been held treason, but the latter has not; and it is not for you, gentlemen, to throw aside this distinction, or to confound offences which the law has separated.

And let me call to your remembrance another principle, that I took the liberty of explaining and enforcing; and which is, that the crime of treason consists in the wicked imagination of the heart. The overt acts are only to be regarded, in so far as they are unequivocal indications of the guilt of the mind. It is the guilty purpose which constitutes the crime; and, unless you are satisfied that the prisoner at the bar had in his mind and heart, the wicked and atrocious design of compassing or imagining the death of the king, you cannot hold him guilty of the treason charged in this indictment.

I flatter myself, that I have been successful

in showing you, that the prisoner had no real accession to the plan about seizing the Castle, nor to the preparing the pikes: both these were the mild measures of Watt alone. The former was rejected by the committee, and by Mr. Downie, and the latter never known to, nor countenanced by them. Any knowledge Mr. Downie seems to have had of the pikes, was transient and accidental; and you must be satisfied, these pikes never could be meant for overturning the state, or endangering the safety of the king.

As to Mr. Downie having been a member of the British Convention, he neither has been, nor, for the reasons I formerly mentioned, can he be criminated upon that account. And, as to his being a member of the Committee of Union, or of the sub-committee of Ways and Means, I cannot discover any evidence whatever, that these committees had any criminal, and far less any treasonable designs. I request you to distinguish, gentlemen, between a zeal for the cause of reform, and a wicked and criminal intention to subvert the government. Because the zeal of some men may be warm and intemperate, it would be unfair to presume, that they would go the length of hostility to the constitution. And because, in societies for reform, there may be some who harbour in their minds treasonable and detestable designs, you must not therefore conclude, that this pervades the minds of others; or, that because a man is a Friend of Reform, or a Friend of the People, he is to be set down as guilty of the crime of high treason.

In fairness and candour, let the line be drawn and the just discrimination made. Confound not the innocent with the guilty. Confound not the less guilty with those who are more so. If, from an intemperate impatience for reform, some men should transgress due bounds, and think of pursuing their object by other means than the methods of the law, let their temerity meet its due punishment; but let not hasty and precipitate resentment magnify into high treason, an offence of a much less criminal complexion. Let us ever remember, that we are to look, if there is the wicked imagination of the heart; and, if we cannot discover there the malignant and atrocious design of compassing and imagining the death of the king, we cannot pronounce that it is the crime of high treason. Let cool judgment disarm resentment, and teach us, that the preservation of the law is of infinitely greater moment than the punishment of any individual.

But, gentlemen, I must conclude, for I feel myself much exhausted, and I am much afraid I have detained you too long. I know your attention and discernment will supply any defects of mine, and I trust you will be satisfied that no crime has been proved, of so deep a dye as can entitle you to take away the life of this poor old man at your bar; and that you will therefore return a verdict, finding him not guilty of the crime charged.



## REPLY.

Mr. Anstruther.—Gentlemen of the Jury ; —I now rise to perform a very unpleasant task indeed—to call upon you for your verdict against one of your fellow subjects. I feel it my duty, and sorry I am that it is my duty, to call upon you for that verdict, because I think that I have laid before you evidence which in point of fact, proves the offence stated in the indictment no less an offence than that of high treason.

There was one observation made by Mr. Cullen in which I most heartily join with him, and wish you to attend to it as much as it was possible for him to do. He called upon you, gentlemen, not to regard any thing that you might have read concerning those transactions, but to confine your attention strictly and solely to the evidence, laying out of your mind every impression you might have received in other places ; and laying out of your mind every thing, except the impressions which you have received from that which is strict legal evidence given upon this trial this day. And most sincerely do I join with Mr. Cullen in recommending to you, and telling you, that you will not perform your duty to your country and your duty to yourselves, if you do not lay all extraneous matter from your minds, and confine yourselves strictly and solely to the evidence before you.

The attention you have bestowed this day to that evidence, renders it unnecessary for me to be extremely long in repeating it ; and that attention satisfies me, that the caution Mr. Cullen gave to you, and which I have now repeated, is at best an unnecessary one. The observations which Mr. Cullen has made upon the law, will make it necessary for me to say a few words to you upon that head ; but you will not take the law from Mr. Cullen, nor from me, although I shall endeavour to state it with all the accuracy I am able ; but you will take it from those much more able to explain it, than either of us, whose duty it is to explain it, and to whose observations it is your duty to attend.

There was another observation of Mr. Cullen's in which I perfectly concur ; and that is an utter abhorrence of every thing called constructive treason. Lord Hale's words, which he read to you, I wish may be impressed upon the mind of every public prosecutor as long as the world endures ; but you will recollect that the words of lord Hale are not applied to the statute 25th Edward 3rd, or to any of the species of treason declared by that law. They are to be found in that part of his work where he makes the panegyric of the 25th Edward 3rd. Thank God, that statute abolished in England a string of constructive treasons enough to make men shudder. To those treasons lord Hale's observations apply. But, gentlemen, it is one of the treasons declared by the statute of Edward 3rd, and continued from that time down to the time I am

now addressing you, which I charge upon Mr. Downie ; and, if I cannot make out that Mr. Downie is guilty of a breach of his allegiance, by being guilty of compassing and imagining the death of the king, which is one species of treason under the statute of Edward 3rd, I totally fail in my case : and I am sure I have no wish, but the wish of justice. I should be happy if the judges found it consistent with the law to tell you that there was no treason laid in this indictment, or proved by the evidence, and that you find it consistent with your oaths to acquit the prisoner at the bar. The public prosecutor has done his duty in laying the case before you : he will be happy if it admits of a verdict of not guilty ; but if you view the law and the evidence as I do, I am afraid it will be hardly possible that it should be so.

Gentlemen, I have said, that this indictment accuses Mr. Downie of being guilty of one of the species of treason left by the statute of Edward 3rd—compassing and imagining the death of the king ; and it is true, as Mr. Cullen has stated, that, in the case of the king, the statute of treasons hath with great propriety retained the rule *voluntas pro facto habetur*. In the compassing the king's death, the wicked imaginations of the heart have the same degree of guilt as if carried into execution from the moment measures have been taken for that purpose, whatever they may be.

The next thing for us to inquire is, what the statute does not tell us, but which the law has left to the judges in each particular case to determine, namely, what acts are to be held as means taken for carrying such compassing and imaginations into effect, and to be evidence of them, or what in other words, is an overt act of this species of treason. If means have been taken to carry the design into execution, the party is guilty. What those means are, may vary in every case ; and, since the date of the statute, various facts have been held to be overt acts of this species of treason, and various principles have been established with regard to what are or are not overt acts of compassing and imagining the death of the king. I will state these shortly, in the words of some of the first lawyers and judges of England, whose opinions have served as a guide to succeeding judges : and from them you will learn the principles which have guided courts of justice on determining what were overt acts of this species of treason ; and you will hear the cases which have been determined, and which have been put as illustrations of these principles.

In the first place, I take it as too clear to be disputed, that a person is guilty of compassing and imagining the death of the king, from the moment means are used to effect the purpose of the mind. It is also perfectly agreed upon all hands, that it is not necessary to lay before the jury, or state in the indictment, a direct immediate attack on the person

of his majesty. It has been held at all times not necessary to state an attempt to poison, or to assassinate the king. Most unquestionably, if those means were used, they would irresistibly speak the purpose of the mind; but means may be used to effect the purpose of compassing and imagining the death of the king, infinitely short of such attempts as those. Mr. Cullen agreed that a person going into a boat for the purpose of going to France with treasonable papers in his possession, was properly held as employing means to effectuate the intention of his mind, and an overt act of compassing the death of the king. Mr. Justice Foster, on whom Mr. Cullen bestowed a very deserved panegyric, tells us—"The care the law hath taken for the personal safety of the king, is not confined to actions or attempts of the more flagitious kind, to assassination or poison, or other attempts directly and immediately aiming at his life; it is extended to every thing wilfully and deliberately done or attempted, whereby his life may be endangered." Therefore, gentlemen, if I state it in the indictment, and prove any act done deliberately, whereby the life of the king may be endangered, I have stated and proved that which is, in point of law, an overt act of compassing the king's death. The same author says, "the entering into measures for deposing or imprisoning the king, or endeavouring to get the person of the king into the power of conspirators, have been held overt acts of high treason within this branch of the statute." Why? Because they are acts done, or attempted, not by which his life is to be immediately affected—not by which his life is to be taken away, but they are acts done and attempted, whereby his life may be in danger. The same author farther says, "offences which are not so personal as those already mentioned, have been with great propriety brought within the same rule, as having a tendency, though not so immediate, to the same fatal end;" and, therefore, the entering into connexions for the purpose of bringing foreigners to invade the kingdom, has been held an overt act of high treason—And why is it held to be an overt act of high treason? Because it may endanger the life of the king.

I could put a case, where it could hardly be within probability that an invasion should directly be aimed against the person of the king. I could put the case of the king being upon the Continent at the time that some persons made a contract with a foreigner to bring 20,000 Russians, or other foreigners, to make war in this country. This could not be high treason under the clause of levying war, because no war was levied. It would not be adhering to the king's enemies, because the persons supposed are not the king's enemies. The king's person could not be in immediate danger, because the case supposes him in his foreign dominions; but would it not be high treason? Most certainly. It is the king's

duty to repel such invasion; to place himself in a situation of danger: the measure directly points at disturbing the peace of the country, which it is his duty to protect; at introducing hostilities, which the obligations of his situation call upon him to suppress; therefore the tendency of the attempt necessarily exposes his person and life to peril; and it is to that natural and apparent tendency that we are to look. Foster states the principle distinctly, when mentioning the offence of inviting foreigners to invade the kingdom to be high treason. It is such, says he, because it hath a tendency to endanger the person of the king, and therefore it hath, in strict conformity to the statute, and to every principle of substantial and political justice, been brought within that species of treason of compassing and imagining the king's death. You therefore see, that every thing which has a manifest tendency to endanger the person of the prince, is an overt act of compassing his death. Whether the acts stated in this indictment and proved by the evidence, have that tendency or not, I shall consider by-and-by. These are not only the words of that great and illustrious person, and such he certainly was; but no judge, who either preceded him, or who has followed him, no text writer of authority differs from him. Hawkins says, "The person of the king may be endangered, not only by such overt acts as to take away his life, but such design as cannot be executed without apparent peril thereof." Gentlemen, it will be for you, and my lords the judges, to consider, whether the design stated in this indictment could be executed without apparent peril and danger to the king. The same author, in another place says, "It hath been adjudged, that the levying war against the king's person, or the bare consulting to levy such war, or meeting together, and consulting the means to destroy the king and his government; or assembling with others, and procuring them to attempt the king's death, by listing men in order to depose the king, or printing treasonable positions, as that the king is accountable to the people, and that they ought to take the government into their own hands, is an overt act of high treason."—Why is it such? Because it is to excite the people to take the government into their own hands; and that cannot be done without endangering the person of his majesty. Gentlemen, you will judge under direction of the learned judge who presides here—you will judge from what has been laid before you on this trial, whether there was, or was not, amongst these people a design to take the government into their own hands? and whether it did not go farther than printing that proposition in a book, and publishing it to the world, which in the opinion of the writer whom I have just cited, is high treason. Have no means been taken, no steps pursued, far beyond the printing and publishing an opinion that the people ought to take the government into their own hands? Look at the



instruments lying upon the table, and say whether the providing of these for the purposes proved, speaks not the intention clearly, and whether they are not means more effectual for carrying that intention into execution than the publication of any book, however dangerous the propositions it contains.

Gentlemen, my friend, Mr. Cullen, most deservedly bestowed a panegyric upon lord Hale, and from him read that quotation respecting constructive treason, which I have mentioned. He told you, as he said, from his authority, that a conspiracy to levy war is not treason, unless it be where it is directly against the person of the king. Now I am perfectly ready to agree, and God forbid I should not, that a conspiracy to levy war, is not under all circumstances, an overt act of high treason. Mr. Cullen stated fairly, there are two species of war in contemplation of the law; one that might be directly against the person of the king, and one that may not have the least relation to the person of the king, but which may be called a war merely upon other men; and but for the generality of the purpose, would be no more than a riot. If people assemble to pull down any house, it is a riot, and no more. If they assemble to pull down the houses of all lawyers or judges, or all merchants or religious houses, such as all meeting-houses, or all churches, or any thing that does not point to an individual, that is held to be a levying war; but a conspiracy to do that act, is not an overt act of high treason. And why? Because, it is impossible to say, that men who do these things, have the smallest intention against the prince; they neither do, nor intend to do, an act by which his person is in danger. It is war by construction only; and, it cannot be allowed to make the act war by construction; and then to argue, that, because it is war, it is means used, which in their natural and direct tendency, endanger the person of the king. The natural tendency of their acts, does not put the person of the prince in peril. It is the generality of their purpose alone, which brings them within the statute of treason. It is in the remote consequences, and in these alone, that danger may arise to the life of his majesty. But is that the case with regard to an attempt to overturn the government, of which he is the head, and first executive magistrate; or, with regard to an attempt to supersede the legislature, of which he is an integral part? Is it possible such attempts can be made, without directly endangering the person of the king?

Now, Gentlemen, that you may follow the rule of lord Hale which I wish you to do, I will state what he says upon this subject. Lord Hale, who is quoted to you as the enemy of all constructive treasons, lord Hale says, "though a conspiracy be not immediately, and directly, and expressly to effect the death of the king; but the conspiracy is of something that in all probability must induce it; and

the overt act is such a thing as must induce it: then it is an overt act to prove the compassing of the king's death."—He then proceeds to a number of instances, and says, "an assembly to levy war against the king, either to depose, or restrain, or enforce him to do any act, or to come to his presence, or to remove his counsellors or ministers, or against the king's lieutenant or military commissioned officers, is an overt act proving the compassing of the death of the king; for such a war is directly against the very person of the king; and he that designs to fight against the king, cannot but know at least it must put his life in hazard."

Tell me, gentlemen, whether the facts charged in this indictment do not amount to a consultation and conspiracy to fight against the king's commissioned officers; and if they do, it must put the king's life in danger. Tell me, my lords and gentlemen of the jury, whether the plan proved by the evidence is not a plan to force the king to do something against his will, to restrain him from doing that which as a branch of the legislature he had a right to do, and to take the will of those conspirators instead of his own? One word more, gentlemen: he farther says, "yet such a conspiracy or compassing to levy war against the king directly, or against his forces, a meeting and consulting for the effect of it, whether the numbers be more or less, disguised under any other pretence whatsoever, as of reformation of abuses, casting down inclosures, particular or generally, and wrestling, football-playing, cock-fighting, yet, if it can appear, that they consulted or resolved to raise a power immediately against the king, or the liberty or safety of his person, this congregating of people for this intent, though no war be actually levied, is an overt act to maintain an indictment for compassing the king's death within the first clause of the statute of Edward 3rd; for it is a kind of natural or necessary consequence, that he that attempts to subdue and conquer the king, cannot intend less than the taking away his life." Gentlemen, it will be for your determination this night, whether there was not a conspiracy entered into by the prisoner at the bar, and his adherents, to subdue and conquer the king?

I shall now, gentlemen, state a passage, of which Mr. Cullen read a part to you. It is from a speech of lord chief justice Holt, whose authority is deserving of your most serious attention, and when the whole paragraph is taken together, his opinion is stated in so masterly a manner, and so clearly, that it is not necessary to say a word more than barely to state it. It is in the trial of sir John Friend, for high treason.

"He says," (speaking of the defendant), "Here is no war levied, and a bare conspiracy or design to levy war, does not come within this law against treason." Upon this I must observe, that if there be only a conspiracy to



levy war, it is not treason; but if the design or conspiracy be to kill the king, or to depose him, or imprison him, or put any force or restraint upon him; and the way and manner of effecting these is by levying a war, there the consultation and conspiracy to levy a war for that purpose is high treason, though no war be levied; for such consultation and conspiracy, is an overt act proving the compassing the death of the king, which is the first treason mentioned in the statute of the 25th of Edward 3rd; the words of that statute are, that if any man shall compass or imagine the death of the king; now, because a man designs the death, deposition, or destruction of the king, and with that design agrees and consults to levy war, that this should not be high treason, if a war be not actually levied, is a very strange doctrine, and the contrary has always been held to be law.\* He goes on to say, "There may be a war levied without any design upon the king's person, or endangering of it, which, if actually levied, is high treason; but if a war be levied without endangering the king's person, such would not be an overt act of high treason. If persons assemble themselves, and act with force in opposition to some law, which they think inconvenient, and hope thereby to get it repealed, this is levying a war and treason, though purposing and designing it is not so. When they endeavour in great numbers, with force to make some reformation of their own heads, without pursuing the methods of the law, that is levying of war and treason." Then he goes on to say, "But if there be, as I told you before, a purpose and design to destroy the king; and to depose him from his throne, or to restrain him, or have any power over him, which is proposed or designed to be effected by war, that is to be levied, such a conspiracy and consultation to levy war, for the bringing this to pass, is an overt act of high treason."† In the trial of sir William Parkyns, who was indicted for the same conspiracy, another most eminent judge, lord chief justice Treby, says the same thing; his words are: "But I must tell you, that this treason of compassing and imagining the king's death, may be made evident by other acts besides that of assassination: to conspire with a foreign prince to invade the realm; to provide arms to join with invaders, and to make an insurrection against the king,—these are overt acts of imagining the king's death; for it cannot be supposed, but that he that would have stirred up an invasion, and an insurrection against the king's person, does intend the destruction of the king, which is an overt act of high treason; and he that would take away all his defence, which he might have by the assistance of his subjects,

\* See the case of sir John Freind, Vol. 13, p. 51, of this Collection.

† See sir John Freind's Trial, *anté*, Vol. 13, p. 68.

and leave him exposed to his mortal enemies, cannot but be presumed to design the king's ruin and murder."\*\*

Now, gentlemen, such is the law and its distinctions upon this subject. If there be a design through the medium of war, to overturn the government of the country, of which the king is a part; to supersede the legislature, of which he is an integral branch, as well as first executive magistrate; it is hard to say, that such a design, if carried into execution, would not endanger his life. His duty to that constitution, which has placed him in the situation of its first executive magistrate, calls imperiously upon him to resist, at all hazards, all such attempts; their success no king could survive; and the very first step taken either to ensure their success, or to prevent their completion, places him in a situation of danger and peril, from which it would be strange, indeed, if the law, which protects the means of his subjects, did not strongly interpose for his defence.

Thus much with respect to the law: with regard to the facts given in evidence before you, feeling myself very much exhausted, and apprehending you must be the same, from the length of time this trial has lasted, I shall state them very shortly: and I am happy to say, that the very great attention you have bestowed through the course of this long trial, renders it unnecessary for me to be minute, and enables me to perform my duty, without consuming much of your time.

The first evidence we brought before you, was for the purpose of proving a conspiracy in general, to overturn the constitution of the country; and how far Downie is affected by it, will be for you to determine. I think he is directly affected by it.

First, we prove it, by the correspondence of seditious societies held in London, and in other places; their letters say they will have means more effectual than the petitioning parliament for a reform. What means? I desire you to take that letter of Skirving to Hardy, into your consideration, and tell me whether it does not directly point out the plan for the destruction of the whole government of this country, and placing one organized by Skirving and his associates in its stead; Skirving says, we have already formed a plan for organization, that when the time comes, he and his friends may be ready to act, and may not be occupying themselves with organization. Take that letter, and tell me whether it does not directly and pointedly go to the case of the dissolution of the government of the nation, and Skirving and his organized body taking the place of the government of the country. What does the seditious society in London do? First, it proposes to Skirving to adopt a method more effectual than petitioning. What is it Skirving proposes to be more

\* See the Trial of sir William Parkyns, *anté*, Vol. 13, p. 113.



effectual than petitioning? A Convention. What is Skirving and the society to go on with and endeavour to procure? A Convention. What is the convention pointed out by Skirving in his letter to do?

Their determination is, that if the legislature dares to do a particular act in the exercise of its legal functions, they will resist that legislature. What is this in plain English but a conspiracy to overawe the legislature from doing its duty; if it does its duty, to resist and rebel against it? When that society, calling itself a Convention, met, how did it act? It formed itself upon the model of a convention in another country, the effects of which, in that kingdom, I need not state. It next assumes the name of a British Convention.—After that name is assumed, do you hear a word of petitioning parliament? No. My learned friend read a passage from the Minutes, in which it was proposed by some members to petition parliament; the idea is treated with contempt: and, after that, shall I be told it was a society for the purpose of petitioning parliament for a reform? They tell me themselves they did not intend to petition. But is that all? Do they stop there? They come to a resolution, in which they expressly declare, that they will, in a variety of given cases, resist the authority of the legislature; and if parliament shall dare to pass a particular law, they will dare to meet, in defiance of that law, till superior force obliges them to desist; force superior to what? Gentlemen, can you read this resolution otherwise, than as a resolution to continue to act in disobedience to the laws of the legislature, to condemn its authority; to resist the execution of its decrees, till a force superior to their force, should compel them to desist. Gentlemen, what is this, but a conspiracy against the legislature of the country, and a resolution to resist it by force; and what sort of a war would it have been, if the legislature of this country its King, Lords, and Commons is to be resisted by force?—Would it, or would it not have been a war directly against the person of the king, and directly endangering his safety? What is to become of his majesty, sitting in his parliament, if another parliament, sitting in Edinburgh, or any where else, are to tell the legislature how far they will obey or not. But this is not all. They provide for future conventions, and form themselves into a permanent body, to meet and to act as occasion shall require; they resolve, that each delegate, when he returns home, shall desire his constituents to choose a fresh delegate to a fresh convention, and providing a fund for defraying the expense of that delegate. It was asked me, did I mean to criminate Mr. Downie for what he did as a member of the British Convention. I say, gentlemen, that I do not. But if, after Mr. Downie was brought here as a witness on the trial of Mr. Skirving, he chooses to act upon the resolution of that assembly, to adopt its purposes, further its

views, act upon its plans, and do that, which its last resolution pointed out,—to endeavour to procure a delegate to be elected to another new convention; and if he did collect money for that purpose—I do mean to connect Mr. Downie with those acts I have proved of his knowledge of the acts of the British Convention; now I come to that which directly criminate him. He knew the operations of that convention. What did Downie do? He meant to provide for defraying the expense of delegates to another convention. Mr. Cullen asked me if I meant to assert, that every man who is concerned in what is called the cause of reform, is to be supposed going the whole criminal length of every other man engaged in the cause of reform? I say, most certainly not. But if I prove that Downie acted upon the plans and views that the British Convention did, then I criminate him. What was this Committee of Union? What was this Committee of Ways and Means. The Committee of Union, you have been told by M'Cubben, Orrock, and Brown, one of its members, that the Committee of Union was for the electing a delegate to another convention, and providing money for the expense of the delegate. What is this less than acting upon the last vote of the British Convention, which brought about their dispersion. What was that other convention to be? The paper circulated about it calls it another British Convention. Then the next convention, to which Mr. Downie was to elect a deputy and pay his expenses, was to be similar to that I have mentioned. What was that convention? It was of that criminal nature I have stated,—a conspiracy to resist the legislature in the exercise of its functions, to support itself by force, and not to desist, till opposed by that which puts an end to all rebellion, superior force.

It might be said, there was to be a convention to meet in England; and, however illegal the British Convention's views and purposes might be, Mr. Downie meant not the British Convention that was past, but the convention which the English societies meant to call in England. What was it they meant to call in England? A convention similar to the British Convention, another British Convention, the views, the objects, and acts of which these English societies applauded, approved, and adopted: and, I may add, that the most violent of the acts of the British Convention were the natural and necessary result of the principles laid down by the London Corresponding Society for the direction of its delegates. If you read the minutes of the Globe Tavern Meeting,—if you read that paper published and circulated at Chalk Farm,—the whole of those proceedings are founded upon the last vote of the British Convention. The dispersion of that convention is one of the grievances complained of, and it is the model upon which the new convention is to be framed. It is to meet in the

same events; to resist the authority of the legislature; to repel force by force; to prevent King, Lords, and Commons from passing certain laws, and resisting them if they do, in the same manner as the British Convention have resolved to do.

Now, Mr. Downie may take his choice. Did this Committee of Union meet for a purpose similar to the British Convention? If it did, it was for a business highly traitorous and criminal. Did it meet for the purpose of calling a convention similar to that proposed at the Globe-tavern, at Chalk-farm, and by Hardy's circular letter? They are one and the same. There is no difference between that and the British Convention; the nicest distinction cannot separate them. The object of the Committee of Union, then, was to call a convention, and employ delegates, which convention was to resist the proceedings of the legislature, and to repel force by force. What? is a convention to resist the authority of the legislature, to act by its own force? It is a supercession, for the time, of the whole executive and whole legislative authority of the kingdom; and shall I be told, that a conspiracy to call a convention to resist the whole legislature of the country,—I say, shall I be told, that calling such convention, is nothing more than sedition; and if such a thing is done, that it would not put the king's life in danger? It must put the king's life in danger, because, from the hour that scheme took effect: from the first moment such a convention met to resist the authority of the law, and determined to sit till it was dispersed by a superior force, from that moment there is no legal authority in the country; King, Lords, and Commons were deposed and annihilated, if such an assembly met for one day. That could only be seditious, says my friend; for if it had been more, why are not the members of those English societies held to be guilty of treason. To this I shall only answer, that if the observation had been a little later in the month of September, there would have been no men for it.\*

Do you wish to know more distinctly the objects these men had in view by the future convention, and the means taken to support it when called?

Look at the acts of the Committee of Ways and Means; which met for the purpose of paying the debts of the past convention, and for the purpose of electing and providing a fund for the payment of delegates to a future convention, and keeping up the spirit of the Friends of the People. Observe, for one moment, what this Committee of Ways and Means, acting not as individuals, but acting for the purposes which I have stated, and on behalf of the Friends of the People, considered to be its duty, and held to be its business. In the pursuit of those objects, and the prosecution of that duty, the committee

\* See the next case.

acted by authority, and on behalf of the Friends of the People; and mark the words, gentlemen, you recollect they came from one of the witnesses. One part of the business of that committee, the object of which was to elect and pay the expenses of a delegate to a new convention; one was, to debauch the soldiery of this country; another part of its business was, to send Fairley round the country, upon the important embassy which has been detailed to you by the witnesses; another part of its business was, to provide for the grand plan; another, and not a trivial part of it, was, to procure instruments, such as you now see upon your table; and shall I now be told all this was innocent, and that the convention, intended to be called and supported by such means, had nothing more than a legal reform in view? I dare say thousands of these deluded men, who passed under the name of Friends of the People had no such objects in view, as I have been stating to you. Many deluded and many misled people were among them; but was the Committee of Ways and Means deluded? Was it delusion that led them to send Fairley round the country for the purposes for which he went? Was it delusion that made them desire Orrock to provide pikes? Was it delusion that induced them to pay Brown for the pikes he had made? Was it delusion that made them consult and consider of the extraordinary plan, of which you have heard so much? Mr. Cullen desired you to consider, whether it was possible that these low men, assembled in small numbers, meant all these great purposes which I have stated them to have meant; and stated the wildness and extravagance of the plan, as rendering it impossible for you to give credit to its existence. Whether the scheme was wild and extravagant, or not,—I will not take upon me to say: The wildness and extravagance of the scheme does not prove the scheme did not exist; and men are not to escape punishment, because, thank God, the spirit of the country is such, that any such plan, although supported by numbers much greater than theirs, and men more powerful than they, would be wild and extravagant: But why are such schemes wild and extravagant. It is, because the spirit of the country is awake; and because so many of the inhabitants of these kingdoms have been called forth by the alarm, and have stood forward in a way which does them honour, and, I trust, bids defiance to the designs of malevolent and wicked men; whether few or numerous; whether at home or abroad. But, that there was such a plan is not less true, because national loyalty and spirit, a love for the king, and veneration for the constitution, have rendered it wild and extravagant.

Gentlemen, you might have thought, perhaps, in former parts of your life, that a scheme by low men, in low occupations in life, and small means in point of money, to overset and overturn the government of a



country, was a thing so extravagant, that its extravagance was evidence of its non-existence: but can you think so, at this day? Have you not seen a mighty monarchy crumbled to pieces? Have you not seen a great king led to the scaffold? Have you not seen all that was great, was learned, was respectable or sacred, in one of the mightiest monarchies in Europe, scattered like chaff before the wind, by instruments whom, but a few years ago, you should have thought vile and contemptible? To use the phrase which I borrow from my learned friend near me, because I never can do better than when I borrow from him—Such schemes are the treason of the day; the growth of this particular period; the treason of the hour in which we now live. Melancholy experience assures us of their existence; and even their extravagance itself may in some degree furnish the means, and facilitate their execution.

I must next call your attention for a very few moments to this committee. First, it is to pay the debts of the past convention; then to provide for the expenses of delegates to a new convention; then it becomes a Committee of Union too large to act, too great in its numbers; then a smaller committee is formed; a permanent committee; a secret committee, consisting of seven members, chosen from the Committee of Union. What are the powers entrusted to that committee? Unlimited powers over the society at large, as far as delegation can go. One of the witnesses had great difficulty in saying it was a secret committee, and did not know what committee it was; at last he says, it was just such a committee as men would have who wished to keep their business secret and private; that is, a committee of secrecy. Now, what are the acts of this committee? Its first act is, to establish a set of collectors, who were to collect sense and money; who were to know what number of patriots could be depended upon; what exertions could be made in the great cause.—Read the circular letter, and then tell me what were the views of the committee. "We would wish to be informed what number of friends you have, whose patriotism you can rely upon, with the most implicit confidence, and whom you know will spare no exertion whatever in promoting the great cause we have in hand;" patriotism is not sufficient: greater exertions are necessary. What were these? Read Fairley's paper with the blank, as he has filled them up; what is wanted at Stirling? Courage. What, was courage wanting for a petition to parliament? was courage wanting to procure a reform by legal and peaceable means? No: courage was wanted for the hand to guide those pikes; courage was wanted for the collectors who were to conduct the divisions; courage was wanted to seize the Castle of Edinburgh, and overcome them whose duty it was to defend it; to seize the judges, and other magistrates of the country; and to seize upon the

banks, and deluge this country with blood, from one end to the other.

Gentlemen, one of the first things done after appointing these collectors is, a meeting for the purpose of answering Mr. Hardy's circular letter, respecting another British Convention, about which I have said enough. Watt, the leading member of the committee; Downie, the treasurer, the general treasurer of the Friends of the People, were both present at that meeting. Mr. Watt produces a plan which he reads to the committee. Mr. Cullen reads a quotation to you, to prove, that if a person was once present at a consultation for treasonable purposes, without knowing what the purposes of the meeting were, he could not be guilty of treason; most unquestionably not;—nor would I call upon you to say Mr. Downie was guilty of treason, if he had never done more than being present at this meeting: and if nothing more passed than passed the first evening the plan was read; if Mr. Downie had known nothing of the nature and objects of the committee; if he had done nothing before or since, to prove his knowledge of, and accession to the whole; the barely being present at a meeting for treasonable purposes, without a knowledge of these purposes before-hand, is not of itself an overt act of high treason. But what was his conduct when the plan was produced? Two persons (one of whom, if he was engaged in schemes at any time hostile to the constitution of his country, has most unquestionably made that constitution all the amends in his power, by the candid manner in which he gave his testimony); I mean McEwan, when that plan was mentioned, exclaimed against it; and would not agree to any thing that was to occasion bloodshed in the country; Mr. Bonthron said, No, no; and seemed to be in great fright,—Bonthron immediately determined to leave the society, and to get rid of it for ever, and free himself from every dangerous consequence, which might attend his having been present at such a meeting, by stating to the world, that he had withdrawn from these connexions. This conduct of Bonthron's strongly corroborates the evidence of what the plan really was; it proves, that it was a plan of very great danger, and very great alarm; the plan proved is precisely consistent with the effect the reading of it produced on them; it was to seize the Castle of Edinburgh, raise a fire at the Excise-office, and when the soldiers came out to extinguish it, the Friends of the People stationed for the purpose, were to attack them. All these things were to be done, not by the assistance of indifferent men, who might be picked up by Watt and Downie; but by those who meant to elect delegates, and pay their expenses to a future convention, by the constituents of the Committee of Ways and Means: one party was to meet at the Luckenbooths, another at the Bow, others were to be stationed to seize the judges and ma

istrates of the city, and the banks; and then couriers were to be sent into the country, putting the farmers in a state of requisition, and the gentry in a state of confinement, under the penalty of death for their disobedience; and, last of all, his majesty himself was to be made to submit to the will of these conspirators. When this plan is read, what says Downie of it? Is he alarmed at it? Is there any evidence of his fright upon the occasion; or, is there any thing of his drawn up to satisfy the world, he had abandoned all these committees? But I am ready to take it, that at that meeting he neither assented or dissented. It cannot be denied the evidence goes this length at least: but did Downie do no more? Mr. Downie met Mr. Orrock at that Committee of Ways and Means; and Mr. Downie at that Committee of Ways and Means, with Mr. Watt, gave orders for the instruments that were to accomplish this plan, and which now lie upon your table. Does a man, when he has dissented from a plan, join with another in ordering the instruments to accomplish it, and carry it into execution? Orrock tells you, Downie was present when he had the first conversation with Watt, when he said he would make a pike: What did Orrock do when he made it? He brought it back: To what place? to George Ross's, where the Committee of Ways and Means met. Did he deliver it to Watt alone, by calling him out from the meeting, or deliver it to him publicly in the Committee of Union; no, he called out Mr. Watt and Mr. Downie; the Sub-committee met in the same house with the Committee of Union; Watt and Downie were members of both committees; and they were called out by Orrock as Sub-committee-men, acting together, to talk about these pikes. Did Downie say to him, you have been talking of a plan that is to destroy the government of this country? You have been talking of a plan, that may deluge the streets of Edinburgh with blood; and now you are providing instruments and weapons for the purpose of carrying it into execution, I will have no more connexion with you: These are not the purposes for which we have associated: these are not the objects of our committees? No. He joins with Watt in telling Orrock to make a number of pikes, and then bring them back. To whom was Orrock to bring them? To the Committee of Ways and Means, consisting of Mr. Downie, and Mr. Stoke, and I believe at that time, if I recollect, M'Ewan. When Mr. Downie heard Mr. Watt was apprehended; when he heard that M'Ewan had been examined, he goes to Mr. M'Ewan, and asks him what questions had been put to him, and tells him—Mr. M'Ewan, if you are examined again, and you are asked whether you know me, say no: and if I am asked whether I know you, I will say, no. Mr. M'Ewan, much to his honour, refused to have any thing to do with such a

scheme. But, ~~the~~ Downie's the conduct of an innocent man? No. It is the conduct of a man who had assented to the plan from the beginning. And here I must remark, that it was from this conversation that M'Ewan for the first time learned that Downie had paid money to Martin Todd and Brown for pikes. Who is Brown? He is concerned in the same business, in which Downie and Watt employed Orrock. Brown is employed to make pikes—Who pays Brown? Downie. Out of what fund? Out of the fund of the Committee of Ways and Means. Who ordered the pikes from Orrock? The Committee of Ways and Means. Now, I am told, I have not proved that Downie knew that this money was paid for pikes. I leave you to judge of that. Orrock was employed to make pikes by order of the Committee of Ways and Means. Brown was employed by Watt for the same purpose; he pays him by an order upon Downie, the treasurer of the committee, the general treasurer of the Friends of the People. Downie pays him out of these funds—Is it credible that he did not know the purpose for which the money was paid? Did he, who employed Orrock, not know the occupation of Brown? But if this be not sufficient evidence of the complete assent of Downie, attend to the evidence given by Fairley. Whom was Fairley employed by? Originally by Mr. Watt? No. By the Committee of Ways and Means. Whose message was he to carry? A message from the Committee of Ways and Means. Whose instructions had he to carry? The instructions of the Committee of Ways and Means. Who did he give back the instructions to? He was to give them back to a clerk of the Committee of Ways and Means. Still I am told, that Mr. Downie knew nothing of the mission of Fairley. It is said, he might mean only to send those letters and papers, and might not mean any thing about the plan. It was the instructions alone, which told Fairley where he was to go, and where he was to deliver those letters. He was to deliver the letters at Falkirk, Stirling, Burrows-tounness, St. Ninians, Kilsyth, Kirkintulloch, Campsie, Glasgow, and Paisley. You will determine if these instructions did not come from the Committee of Ways and Means; for it is admitted Downie knew of the distribution of the papers, and knew where they were to be conveyed; and did he then not know of the instructions by which Fairley was told the route he was to take? Read the circular letter, and say whether there is not a pretty close connexion between that letter, and the plan and projects already mentioned? Where did Fairley go when he came back? To the Committee of Ways and Means. Who paid the expenses of his journey? Downie. From whom did he get the money to enable him to go? From Downie. Now, if Mr. Downie knew nothing of those instructions, did it never occur to him to ask



why did you go to Glasgow, onto this or that place? Was Downie surprised at the circuit he had made, or did he inquire for what purpose, or with what view it was undertaken. No, on the contrary, he readily paid him for his trouble in undertaking the journey, and seemed satisfied with the manner in which it was performed. You will judge from that, whether Mr. Downie knew of the other transactions of the Committee of Ways and Means. Gentlemen, you recollect, too, that when Watt and Downie gave instructions to Orrock to make the pikes, Watt and Downie desired him to keep in his eye the drawing they made; and when he brought the pike he had made, he was sent out of the room while Watt and Downie had a consultation together. After that consultation, he was called from the Committee of Union, into which he was going, and received from them two jointly, the order for the pikes, which he executed, and which now lie before you.

There is another circumstance, a strong circumstance it is too: a pike has been seen in the house of Mr. Downie: when it was seen, it was endeavoured to be concealed; it was called by Mr. and Mrs. Downie a dividing-knife. Whether the instrument that is now produced be like a dividing-knife or not, you will judge. That conversation between Mr. and Mrs. Downie, affects Downie with a knowledge of these pikes being in the house. The circumstance of its being called a dividing-knife, and concealing both its being there, and what it really was, is one to which you will no doubt give its due weight. Certain it is, that it was not found in his house when search was made several days after the apprehension of Watt. You recollect the pike was seen in his house prior to the apprehension of Watt, and posterior to the apprehension of Watt was not found there; and it was after that apprehension, too, that he went and had that conversation with M'Ewan, which I have mentioned: you will judge whether, from all these circumstances, there is not complete evidence of Downie being a *particeps criminis*; of his having assented to that plan of treason, in all its circumstances; the conversation with M'Ewan; the finding the pike in the house; conversing with Brown; sending Fairley, and paying him after he came back from his journey; the pikes being actually made by Orrock, as ordered by him; and his not dissenting from the plan when read, and his full knowledge of all the views, plans, and objects, both of this convention and the preceding convention, with all those circumstances in your minds, tell me whether the result is not complete conviction?

Now I come to the Fencible paper. Upon that I shall make no comment. I desire you to read it; and, after you have read it, judge whether it does not insinuate to the soldiers, that their wives will be ravished; their children and fathers butchered by troops of foreign mercenaries. Gentlemen, does the

paper mean that these horrible deeds were to be perpetrated by foreign invaders? They were to be perpetrated by those who come to be received here in kindness and hospitality. Who are these that are to be received with kindness and hospitality? That paper says, these outrages were to be the return for kindness and hospitality. To whom was kindness to be shown? To the troops brought here by his majesty to defend the country, and not to those that come to invade it. The allusion to the massacre of Glencoe, while it brings melancholy and disgraceful scenes to our remembrance, clearly points out what the troops are, which the paper insinuates were to be brought here to do those deeds of horror. What is the fair construction of this paper, but an endeavour to insinuate to the soldiers of this country, that if they were to defend another part of this nation from an invasion, the very government they went to defend, would ravage their country, destroy their families, and massacre every person they held dear. A doubt has been suggested, whether the dispersion and publication of the paper can be evidence under this indictment? I take it there is no room for such doubt.

Gentlemen, we have charged the prisoner with a conspiracy to resist the government of the kingdom. We have charged him with a conspiracy to compel the king to yield to certain demands. I am entitled to give every act of his in evidence, which will prove that conspiracy, or which can explain the objects he had in view. Above all, I am entitled to give in evidence the means he used to make that conspiracy effectual, and the mode he took to compel the king to yield to his demands, the engines he employed to support his convention, and render vain all resistance to its decrees. One of these means were, those instruments lying upon the table? another was, inciting the soldiers to mutiny and rebellion, and depriving the crown of those legal means of resistance, with which the constitution has most wisely entrusted it. I am not obliged to lay all the evidence as overt acts; out of kindness to the prisoner, and in order that he might have as full a knowledge as possible of the case we meant to make against him, as this mode of trial is somewhat new in this country, we have been unnecessarily minute and particular in our indictment. Many, very many of what we have laid as distinct overt acts, might have been given in evidence under a more general charge. It cannot be doubted that the plan for securing the Castle, and every thing relative to the ordering or preparing of pikes, might have been given in evidence under a charge of a conspiracy to levy war, or to depose the king; and of that conspiracy there would have been evidence; they may also be stated as overt acts in themselves; because they are means used to effectuate the purpose of the mind, and that a purpose which cannot be carried into execution, without endangering the life

of his majesty, and bringing his person into danger and peril; a more direct evidence of a conspiracy to levy war against the king cannot be, than the circumstance of debauching the army, and endeavouring to arm the subjects against the sovereign. It is to deprive the king of the assistance of his subjects, and, in the words of lord chief justice Treby, which I have already read to you, he that intends to deprive the king of the assistance of his subjects, cannot intend less than his ruin and destruction.

Now, take all these facts together. Take the intentions they had in view; the means they took to carry their intention into execution: take the plan of calling a convention; take the plan of seizing the Castle; consider what were to be the nature and power of that convention when called; the means used to debauch the army; the actual facts of making and providing arms; and then judge, gentlemen, whether, if this scheme had been carried into execution, his majesty's life would not have been in danger? Had this scheme been carried into execution, there would have been no government in this country. The King, Lords, and Commons were superseded in their authority; force was to take place of law, and the will of the multitude to stand in lieu of the constitution. It is with great satisfaction I say, that all those designs have proved abortive. I know that there is a spirit of loyalty in these soldiers who have been attempted to be debauched, as well as in almost all the inhabitants of this country, which I trust will long render all such attempts abortive, by whomsoever they may be made, or by whomsoever they may be conducted. But, let it not be said, that because such scheme may be abortive, if attempted to be carried into execution, that those concerned are not to be punished for the crimes. It is no light thing, gentlemen, to attempt to set aside the government of the country. The slightest evils which can arise, and the least dangerous consequences that must ensue from attempts to supersede the laws and constitution of the country, and to render every thing subservient to the will of the multitude is, the letting loose the turbulent passions of mankind, and the removing for a time the wholesome restraints of law and order; and it is no light thing to remove the restraints of law from the multitude. The restraints of law are as much a part of your liberties, as any other part of the constitution. It is the restraint of law that confines the unruly; it is the restraint of law that controls the violent; it is the restraint of law that prevents the turbulent passions of mankind from overwhelming this country and every other country in blood. Remove the restraints of law, and no one can tell the mischief he introduces. Its effect upon the multitude, which, in all ages, and in all countries, is nearly the same, is well described by the elegant Roman historian Livy, who, in narrating some of the sudden revolutions which

took place in some of the states of Sicily, in which the minds of the lower orders of men were much agitated, philosophically and elegantly remarks, "*Hæc natura multitudinis est: aut servit humiliter, aut superbe dominatur: Libertatem quæ media est, nec spernere modicè, nec habere sciunt; et non firmè desunt irarum indulgentes ministri, qui avidos atque intemperantes plebeiorum animos ad sanguinem et cædes irritent: Sicut tum extemplo prætores rogationem promulgarent, acceptaque pene priusquam promulgata est, ut omnis regia stirps interficeretur.*" May God, in his good providence, avert such evils from this happy land! But let us not be inattentive to the page of history, or to the experience of the present hour, and leave unpunished these dangerous attempts, because the spirit of the nation may ultimately render them abortive. Such an attempt, deliberately resolved upon, and, as we imagine, clearly proved, we have laid before you. It is your duty, calmly to weigh the whole of the evidence, coolly to consider the matter, and lay your hands to your hearts, and say, whether this prisoner be guilty or not, of the treason laid to his charge, as the crime is great, and the consequences of the attempt dreadful. You are anxiously to guard against every impression which horror for the crime, or dread of its consequences, may have upon your minds. If the crime is great, the punishment is also the greatest the law knows, or which a subject of this country can suffer: and satisfactory ought to be the evidence which calls upon you to pronounce a verdict of guilty. Such we think we have laid before you; but if you can acquit him upon the evidence, I shall rejoice. I have done my duty, and my learned friends their duty, in laying the case before you. It is your business to judge of it, and judge of it I am sure you will, in a manner, that, whether you acquit or condemn the prisoner, from the character you bear in the world, and from your conduct and attention this day, your decision will reflect honor on yourselves, and credit on your country.

#### SUMMING UP.

*The Lord President*:—Gentlemen?—The circumstances which have been exhibited to view upon the present occasion, are some of them of a nature so extraordinary, that I believe, at any after time, the existence of them will not easily be credited.

There have been periods in the history of this country, (I mean Scotland), when the lower classes of people had reason to complain of their condition; when ignorance, idleness, and superstition reigned, and poverty was the consequence; when the power of the nobles, and chiefs of clans, was too great for the king and the body of the people. In those times, commerce and manufactures were unknown amongst us, and agriculture was nearly in the same state; the chief employment of all ranks of men in the country,



being civil war, family feuds, riot, and depredation. But how widely different has the state of this country been for a considerable time back? And, particularly, what is it at the present moment? I will venture to say, there is no country existing, which is at present more flourishing; no people whose general condition is better, or whose rights and liberties are more firmly secured.

Gentlemen, the evil does not lie there, but in a different quarter altogether. I am afraid it is too well known. It lies in the insidious attempts of designing and desperate men, to bring this country into the miserable situation of France. It is not a struggle for liberty, in a proper sense. It is not a struggle for happiness. It is not a struggle even for reform, though that word has been much used. Reform is no doubt the pretence; but it is too obvious that the real object is power. It is to throw the power of the state into the hands of popular leaders, who themselves would be led, as they are in another country, by the multitude.

Gentlemen, it is needless to enlarge upon this topic. I will only beg leave to read a passage which struck me a good deal in an admirable speech lately delivered in the parliament of Ireland, where this matter is put in a clear point of view. "The rash career, and fatal consequences of a reforming spirit, have lately been brought before our view by facts so striking and impressive, that what was formerly conjecture, is now conviction; and if we will not follow the example of others, we may possibly add to future misfortunes, the aggravation of self reproach. The progress is natural, and is applicable as a warning to every country in Europe; for there is so much uniformity in the nature and proceedings of man, that in their combinations, almost always similar causes produce similar effects, similar conditions similar consequences, and therefore I do not hesitate to say, with every degree of respect and affection for the people acting within their proper sphere, with every degree of conviction, that their happiness is the chief end and object of every good government; I do not hesitate to say, that there never has been an instance in any age or country, in which political power has been assumed by the lower orders of the people, by those whose education is ignorance, whose condition is uncertainty, whose patrimony is hope, and whose empire must be commotion, which has not proved subversive of liberty, destructive of the general happiness, and particularly unfortunate to those who are the authors of it."

Were any farther illustration necessary, I would take the liberty of referring to another passage, which I recollect to have read in a very ancient book upon republics. The author of that book, among other things, compares a state to a ship, and tells a story, or perhaps a fable (but it is no matter which), of the crew of a ship having taken it in their heads

to say, what right has such a man to be a master? What right has such another to sit at the helm and be pilot? Have we not all as much skill, and are we not all equal by nature? Upon this they immediately proceeded to dress themselves in the officers' clothes; to get drunk with their liquors; and having taken the command of the ship, the consequence was, they steered her upon rocks and shoals, and the whole crew, officers and men, perished in one indiscriminate wreck.

Gentlemen, before you proceed to consider the proof, it is necessary that you should understand with accuracy what the law of treason is upon which you are to judge, I mean that branch of it which is connected with the present business.

[Here his lordship gave the same precise state of the law of treason that he had done in the case of Watt, to which, therefore, it will be sufficient to refer.]

Gentlemen, it does not seem necessary to trouble you farther upon the argument in law, which appears to me to be sufficiently clear, and the same is the opinion of my brother judges. I shall only put this farther case to you by way of illustration. Let me suppose that the rebellion in 1745 had not gone the length of an actual rising in arms, and taking the field; that it had been stopt and prevented in the very outset? but that nevertheless the persons concerned had settled their plans of operation; that arms had been commissioned from France, some actually provided, and other such preliminary measures taken. In such circumstances, it could not have been said that there was any actual levying of war, and, therefore, a charge of high treason against any of the parties concerned, could not have been laid upon that branch of the statute; but can there be any doubt that it would have been a good charge upon the other branch, the circumstances aforesaid being alleged as overt acts of compassing the king's death?

Gentlemen, submitting these observations to you in point of law, I shall endeavour to be short in stating what I have to say upon the evidence, which ought, in a great measure, to be left to your own consideration, as you are to be the judges of it, and not the Court.

The indictment is branched out into a variety of articles, but they resolve substantially into a very few.

1st. That the prisoner, along with others, consulted and conspired to procure a meeting to be held under the name of a convention, for the purpose of usurping the powers of government and legislation, redressing alleged grievances, and bringing about certain changes.

Andly, That they did actually meet, consult, and agree, about compelling the king by force of arms to alter the measures of government, to introduce new laws, and to comply with certain demands.

3rdly, That they consulted and conspired about seizing the Castle of Edinburgh, attacking and surprising the king's forces, and taking possession of certain public offices, and certain persons in authority.

4thly, That they instigated and excited a number of persons to assist in their measures, employing one Fairley to go about as an emissary to divers parts of the country, to collect money and opinions; and that, in prosecution of the same measures, they caused pikes, spears, and other warlike instruments, to be provided, to enable them forcibly to resist the king and his government.

With regard to the 1st, viz. the project of a convention, I am unwilling to go back to the proceedings of the convention, actually held in Edinburgh, called the British Convention, which was dispersed in December, 1793; because it seems to have been the understanding of his majesty's advocate, when the prisoner was adduced as a witness in some of the trials for sedition, which ensued upon that occasion, that he himself should not be tried for any thing then done. But, it is by no means foreign to the purpose, that the nature of these proceedings should be understood, in order, that it may appear, whether the prisoner, notwithstanding his being released from all accusation as to what was done in that convention, did immediately afterwards proceed in adopting similar measures, and, in conjunction with others, his associates, forming the plan of a new general convention for the like purposes, although they acquiesced in the legality of what the sheriff and the magistrates of Edinburgh had done, in dispersing the former, as they took no step to counteract it by application to a court of law. Instead of openly complaining of the intrusion of those magistrates, which they certainly might have done, had their own proceedings been legal, we find them meeting again in a clandestine manner, and instituting secret Committees of Union, and of Ways and Means, in the view of sending delegates to a new intended convention to be held in some place not even spoke out by themselves. It appears, that they appointed Fairley as an emissary, for the purpose of collecting money to be lodged in the hands of this prisoner, who was their treasurer, and a zealous member of both the committees already mentioned; and one great purpose of these contributions was, to defray the expense of sending delegates to the proposed new convention. This has been expressly sworn to, both by McCubbin and Bonthron.

As to the second, and other heads under which I have taken the liberty of classing the overt acts, charged against this prisoner; it is proved by the minutes, and other written evidence, which were read at the bar, that having already presented a petition to parliament without success, it was by no means the intention of these societies to proceed any longer in that way; but it was their determi-

ned plan, by means of a general convention, and by other violent methods, to carry their measures into execution; and you will consider, whether there are not sufficient circumstances to show, that the prisoner, as an active member, and treasurer of the Secret Committees at Edinburgh, was a principal party to all those wicked designs, by which the king's government was to be overturned. One material circumstance is, the plan or project which is said to have been formed by Watt, and communicated by him to this prisoner, and other members of the Committee of Ways and Means, of seizing upon the Castle of Edinburgh, and the judges, &c. With regard to this, it appears, upon the evidence of no less than three different witnesses, that a paper, containing such a plan, was read at a meeting of that committee, where the prisoner was present; it was read by Watt, and dissented to by two of those present, M'Ewan and Bonthron, but not by the prisoner. You are to consider what weight is to be laid upon the circumstances of the prisoner's silence, and neither approving of the measure proposed, nor disapproving of it, by words or signs of any kind. You will no doubt also keep in view, that there is no direct evidence of his having had any previous knowledge of this paper; and M'Ewan says, "He does not know that the subject of this paper was either spoke of again at that meeting, or at any subsequent meeting; that the plan seemed to be entirely Watt's, who altered something in it." Bonthron also says, he did not consider the proposal as made to the Committee, but entirely as a "phrenzy" of Watt's. At the same time, it is proved, that the prisoner did not signify either surprise or dissent, though M'Ewan and Bonthron did so, and afterwards absented themselves, as they told you, from those meetings;—the prisoner did not act in that manner, but continued an active member of the committees, along with Watt.

Gentlemen, there is another circumstance which connects, in some degree, with that which has been just spoken to, and has a very strong and striking appearance;—the purpose of seizing upon the Castle of Edinburgh, surrounding the soldiers, and taking prisoners the different persons in high public characters in this city; and seizing the public Bank, and Excise office, could not possibly be carried into execution, without putting arms into the hands of those who were to be employed; so that arms were necessary to be provided; and it is clearly proved, that the prisoner was equally concerned with Watt, in applying to Orrock the smith, and others, and giving directions about making the weapons now lying on the table. Orrock's evidence was very strong upon this head, and one of the instruments was actually found in his (Downie's) possession, by Margaret Whitecross, the servant maid. How it came into his hands, does not appear. Of this, you must form your own conjectures. He had



been late out the night preceding, and it was found early the next morning by the maid-servant in his dining room; and almost immediately after, it was taken away and kept out of view. Something was afterwards said by Mrs. Downie, in the presence of the servant-maid, about finding this instrument in the dining-room. She said to the prisoner, what have you done with the large dividing-knife or carving-knife, which Charles found in the dining room? or something to that purpose; upon which the prisoner said, he had locked it up. This circumstance appears unfavourable to the prisoner; although it is a possible case, that the instrument may have been left in the room, not by the prisoner, but without his knowledge by his son, who appears, from the servant-maid's evidence, to have risen out of his bed at an early hour in the morning, and taken it away, when he heard her in the room.

Another circumstance, which seems pretty clearly brought home to this prisoner is, his accession to the inflammatory address intended for the fencible soldiers, and to the use made of it at Dalkeith, as sworn to by several witnesses. The effect of this I submit entirely to yourselves, being doubtful whether any weight ought to be given to it, as not being specifically stated in the indictment; though there are general words in some of the articles, under which the counsel for his majesty endeavoured to show, that any attempt to excite rebellion or insurrection in the country might be introduced.

With these observations, I shall leave the case in your hands. If, upon due consideration of the whole, you shall be of opinion, that the prisoner, and those with whom he associated, had no bad design against the king or government of this country; that they are unjustly accused of something they had no idea of themselves; in short, that the prisoner is an innocent man; or, if you think it a doubtful case, your leaning ought to be for innocence. But if, on the other hand, from all the circumstances that have been brought in evidence before you (which I have stated as well as I could do at this late hour), you are satisfied that there is sufficient evidence to bring home to the prisoner any of the overt acts which are necessary in point of law to constitute the crime of high treason; I need scarcely observe to gentlemen of your situation and character, that you are bound, by the solemn oath which you have taken, and by the duty which you owe to yourselves and the country, to pronounce a verdict against the prisoner, whatever the consequence may be. It is not your province to show compassion or mercy. If any such idea can arise at all, it must come from a different quarter. It is your duty to find the truth, and nothing but the truth, and this I have no doubt will be understood by you.

The jury retired for about half an hour;

†

when they returned, they were called over by the clerk of Arraignment, and each answered to his name.

*Clerk of Arraignment.*—Gentlemen of the Jury are you agreed in your verdict. Who shall say for you?

*Jury.*—Our foreman.

*Clerk of Arraignment.*—David Downie, hold up your hand [which he did].—Gentlemen of the jury, look upon the prisoner. How say ye? Is the prisoner guilty of this high treason, whereof he stands indicted; guilty or not Guilty.

*Foreman of the Jury.*—David Downie is Guilty.

*Clerk of Arraignment.*—Gentlemen, what goods or chattels, lands or tenements, had he at the time the high treason was committed, or at any time since, to your knowledge?

*Jury.*—None to our knowledge.

*Clerk of Arraignment.*—Then hearken to your verdict, as the Court hath recorded it. You say, that David Downie is guilty of high treason, whereof he stands indicted; but that he had no goods or chattels, lands nor tenements, at the time of the high treason committed, or at any time since to your knowledge.

*Jury.*—Upon account of certain circumstances, we desire to recommend the prisoner to mercy.

It being past four o'clock in the morning, on Saturday, September the 6th, the Court adjourned to twelve o'clock on the same day.

*Saturday September 6th.*

The Court met this day at twelve o'clock, agreeable to adjournment. The following judges were present; lord president, lord chief baron, lord Eskgrove, baron Norton, lord Dunsinnan.

The prisoners Robert Watt and David Downie being brought to the bar,

Mr. Hamilton \* counsel for Robert Watt said;

My Lord President;—In the situation in which I am placed in this case, I feel myself called upon to let no point or circumstance whatever escape, which I conceive can be of any aid or benefit to the prisoner, and to the defence of his life with which I have been entrusted;—I therefore, my lord, feel it to be my duty, now to state in arrest of judgment upon the prisoner at the bar, 1st, that there is an absolute nullity in the commission itself, under the authority of which this Court has acted; and, 2nd, that there is a manifest informality and defective style in the indictment, which must necessarily prevent any judgment being legally pronounced upon it.

Upon the first of these pleas, I must call the attention of the Court, to the act of parlia-

\* This was, in the original edition of Downie's trial, reported very incorrectly: Mr. Hamilton has furnished me with an accurate account of his speech, of which I have here availed myself.

ment 7th of Anne, c. 21, "For improving the union of the two kingdoms," by which it is enacted, "That her majesty may issue out commissions of Oyer and Terminer in Scotland, to such persons as her majesty, her heirs and successors shall think fit; and that three of the lords of justiciary be in the said commission of Oyer and Terminer, whereof one to be of the quorum." And it is also proved, "That where any such commission of Oyer and Terminer, shall issue, pursuant to this act, and is to be executed within any district where there is a justice general, or person having right of justiciary, who had jurisdiction in cases of high treason, at the time of making this act, from and after the time that such right be made appear before the lords of session and by them certified to the lord chancellor of Great Britain; such justice general, or such person having right of justiciary, or their respective deputy, shall be in the said commission and one of the quorum."

Now the meaning of being one of the quorum as pointed out by the statute, unquestionably is precisely the same as a *sine qua non*, or one without whom no legal court can be constituted, and this restriction is applicable only to the lords of justiciary; three of whom must at all times, according to the statute, be constituent members of the court for which the commission is issued. But what does the royal commission in the present instance authorize? And your lordships will accordingly mark, whether that commission has been issued in the terms authorized by the statute of the 7th of queen Anne; and if it be not I do maintain that it is no legal commission, and nothing which has passed under it can receive effect. It is accordingly quite obvious, that this commission does not conform to, but on the contrary, it goes beyond the authority and sanction of the statute under which alone it could legally be granted. This I shall demonstrate in the clearest manner possible. For besides three lords of justiciary, namely, the lord justice Clerk, lord Harderland and lord Eskgrove, to whom the three other judges of that court are added; who, or any one of them, are declared and required to be necessarily of the quorum, the lord president of the court of session is also, by the commission, declared to be one of the quorum. Had the judges of the justiciary only, been declared to be of the quorum, the commission, would in all respects, have been authorized by the statute of queen Anne; but the insertion of the lord president as one of the quorum, was a manifest deviation from the statute, and such as I conceive, must annul the commission, and the court, and all the proceedings which have followed under it.

For let it be observed what might have happened, according to the framing of this commission. A court of Oyer and Terminer, might have been formed in which there was not one of the lords of justiciary, and in direct contradiction to the statute: this also in

no less than three different positions. The lord president, with the lord chief baron, and Mr. baron Norton, might constitute a court, so might the lord president, with the lord chief baron and lord Alva; and in like manner, with lord Alva, and Mr. baron Norton, yet not one of these four judges, though all in the commission, are lords of justiciary. It is therefore I submit, a clear and demonstrated proposition, that the commission is not authorized by the statute; and it will be no answer to this objection, to state, that no such courts as have been supposed, have, in fact, been formed; as the objection is not *facti*, but *juris*—not to what has taken place but to what might have taken place according to the terms of the commission. But it is sufficient to make out, that this commission has overleaped the enactment of queen Anne, by force of which alone, it could exist at all; and it is on that account unauthorized and illegal, and no measures which have followed under it, can be sustained or receive effect.

Your lordships will readily consider, that the strictest interpretation is always most justly given to statutes which contain any enactments relative to criminal justice: this rule is fixed *in favorem vite*, and admits of no exception or deviation; and upon that principle, the same strictness of interpretation must be given to the statute of queen Anne, which introduced and established the court before whom an offence of this high criminal nature can be brought to trial. It is not indeed necessary to argue for a limited and narrow construction; for there cannot, I submit, be a doubt, that a commission has been issued, not in terms of the statute, but which cannot in the smallest particular be dissented from, and as the commission goes beyond the rule therein prescribed, it had no just authority; and no judgment in the present instance can be pronounced.

Though I do, my lord, rely, with much confidence, upon what I have just now stated, it is proper, at the same time, to call your attention to the second ground of objection, upon which I contend that no judgment against the prisoner at the bar can be pronounced.

Your lordships are fully aware, that in all indictments or charges of a criminal nature, certain technical words and phrases are uniformly required. This is a rule in our own procedure; and according to the law of England, on which we are now proceeding, peculiar nicely is, I find, observed. I have looked into some of the law books and precedents, and I have found that in any indictments for felony, whether for larceny or murder, though the precise day is stated upon which the malicious or evil design was conceived, with the aggravations, yet that it is further necessary to connect the completion of the crime by the fact which indicated and was proof of the intention, both as to time and place, with such preconceived intention, that being the essence, and the fact, the proof of the crime.



In the case accordingly of an indictment for murder, wherein a precise day was affixed to the conceived malice, it would, notwithstanding, as I understand, be defective, unless the place where, and the time of giving the fatal stroke, were connected with the time of forming the design to kill. The words of style adopted to make out and announce that connexion, formerly were *adtunc et ibidem*; and since the statutes 4th Geo. 2nd, c. 26, and 6th Geo. 2nd, c. 14, *then and there* are the technical expressions in observance.

In support of these positions I must refer your lordships to lord chief justice Hale, who in the Pleas of the Crown, part 2, c. 25, "Concerning the form of Indictments," p. 178,—observes that "In an indictment of felony, there must be *adtunc et ibidem* to the stroke or to the robbery, and the day and place of the assault is not sufficient, and this in *favorem vitæ*. And therefore it is usual to repeat the *adtunc et ibidem* to the several parts of the fact, as in larceny or robbery from the person," and he then states various examples—thus: "A is indicted *quod primo die Maii. Anno 2ndo Eliz., apud C., habens in manû suâ dextrâ gladium, &c. percussit B.*, and it is not said *adtunc et ibidem percussit*, quashed, because the day and year and place, relate to the having of the sword, not to the stroke." Serjeant Hawkins, book 2, c. 25, of Indictment, and in regard to specifying *time and place*, gives an opinion to the same import, as to the necessity of the terms *adtunc et ibidem* being repeated in the subsequent clauses of an indictment; and it is observed, that "If omitted, judgment may be arrested—Strange 901." This rule has, so far as I can learn, been uniformly followed and observed in practice. In the indictment against Hamilton, governor of Carlisle, in the year 1746, which appears to have been the precedent, and was the rule upon which all the indictments in the trials at that unhappy period were framed, and which is given at length by sir Michael Foster in his Report, p. 5, 6, it will be found, that after specifying the precise *place and date* to the main charge of the treason, the aggravating circumstances, and various overt acts, are carefully connected with the technical words of reference *then and there*, which are accordingly cautiously repeated in relation to all the acts charged. [Reads that indictment from Foster]. And this rule was confirmed in the case of Rhenwick Williams, tried on 8th July, 1790, reported by Mr. Leach, case 226, where the omission to connect the acts charged by the copulatives *then and there* was fatal to the indictment.

Now upon looking into the indictment in the present case, it certainly does not appear that the precedent in 1746, quoted from Foster, has been followed. It has, on the contrary been entirely departed from, inasmuch as the connecting words *then and there*, are not from beginning to end to be found in

it.—The rule of style in an indictment for murder is equally applicable to a case of treason. The compassing and imagining the death of the king, and the traitorous design to do so, is the crime charged: and in order to make the indictment complete, the overt act or acts specified, should have been connected by a *then and there*, with the period at which the evil imagination, manifested by such acts, was conceived.—This has not been done, so that the indictment is rendered, I conceive, defective. And at all events the precedent in 1746, which has always been regarded as the fixed legal style of an indictment for criminal charges of this description, has been lost sight of and disregarded. And upon these grounds, accordingly, I move your lordships, that no judgment upon the prisoner can in the present instance be legally pronounced.

Mr. John Clerk, counsel for Mr. Downie, stated, that though, in point of law, the objections urged by Mr. Hamilton, would, if sustained, be equally available to his client; yet he did not mean to insist upon them. He had been recommended to mercy by a most respectable jury of his countrymen, and humbly threw himself upon his majesty's clemency.

Mr. Anstruther in answer to the second of Mr. Hamilton's objections, stated that it was undoubtedly necessary, when the time and place was specially condescended upon only in the first count of the indictment, to repeat the words *then and there* at the other counts: but that, in this case, the time and place were especially condescended upon at every separate count in the indictment.

In answer to the other point argued by Mr. Hamilton, Mr. Anstruther stated, that the meaning of the legislature, in declaring, that three of the lords of justiciary should be in the commission, and one of the quorum, was, that the common people of this country might not think that they were to be tried entirely by strangers, but that some persons acquainted with the laws of their own country should be among their judges. He contended the act of parliament had been completely complied with in the present case. The lord justice general, and lord justice Clerk, together with the whole judges of justiciary were in the commission; and the lord justice general, lord justice Clerk, and two of the commissioners of justiciary, were declared, along with the lord president of the court of session, to be of the quorum. Mr. Anstruther contended, that it was not the meaning of the statute that none but the lord justice General, lord justice Clerk, and lords commissioners of justiciary, should be a quorum, but that one of them should be of the quorum, along with such other persons as his majesty should appoint. He also stated that one, at least, of the judges of justiciary, who were of the quorum, had been present at all the diets of court; so that nothing, in point of fact, had occurred,



which would authorize any objection upon the statute.

The Court unanimously repelled both objections.

After some steps of form, proclamation was then made by the cryer, and silence being ordered, Mr. Knapp desired Robert Watt to hold up his hand; upon which he read to him shortly the accusation for which he was tried, and said—"To these charges you plead Not Guilty, and cast yourself upon God and your country; that country has found you Guilty.—Have you any reason to assign why the sentence of the law, which is Death, should not pass against you?"

The same he recited to David Downie. Both prisoners remained silent.

The Lord President then addressed the prisoners as follows:—

Robert Watt, David Downie:—That part of the duty which remains to be performed by this Court, is a most distressing one, but not the less necessary. You had the misfortune to be brought to that bar, under the heavy charge of high treason; and after the fullest inquiry, and most fair and impartial trial, you have each of you been convicted, by the unanimous voice of most respectable jurors of your country, as guilty of that atrocious crime.

The evidence on which the verdicts proceeded, was such as left no room for doubt or hesitation; and the public must be completely satisfied, that the consequence was unavoidable.

Had your designs been carried into execution, by an actual insurrection of those debased men, whose leaders you appear in a great measure to have been, although in the end you must have failed, yet, in the mean time, such a scene of unutterable distress, confusion, and bloodshed must have ensued, that the very idea of it is horrible.

Resistance to an established government can only be justified by the plea of absolute and indispensable necessity. And this can never exist without the most unequivocal proofs of it; and the most general concurrence in those measures which become necessary for obtaining relief.

Such was the situation of this country at the period of the Revolution in 1688; but no one can, with the smallest degree of truth or candour, state, that such necessity occurs at present, or in truth that there has been less ground of complaint, at any period since this country had an existence. No material circumstance has happened in the present reign, which should have given occasion for any degree of discontent; it is to be imputed alone to the wicked designs of bad and desperate men in this country, that such daring attempts have lately been made here, and in other parts of the British dominions, to destroy the tranquillity and happiness of the country; but it is to be hoped, that the vi-

gilance of the executive government, and the strong arm of the law, will be sufficient for our protection; and I also hope and trust, that what has now befallen you, will be such an admonition to others, that there will be little danger of such execrable plans being again thought of, for a long period to come.

You have yet a little time to reflect seriously upon your past conduct, and to prepare for that awful change which is soon to follow. Let me exhort you to make the best use of your time, and to apply for assistance to those who can assist you in such important meditations.

It only remains to pronounce the sentence of the law, which is in these words:—

#### SENTENCE.

The Court doth adjudge, that you, and each of you, be drawn upon a hurdle to the place of execution; that you be there hanged by the neck, but not until you are dead; and that being alive, you, and each of you, be cut down, and your bowels taken out, and burnt before your face. That each of your heads be severed from your bodies; and your bodies divided into four parts; and that your heads and quarters be disposed of as the king shall think fit: and so the Lord have mercy upon your souls!

This is the sentence of the law; and I give farther notice to you, and to each of you, that this sentence will be carried into execution, upon Wednesday the 15th of October next, between the hours of twelve at noon, and four in the afternoon, in terms of a precept to that effect, which will be delivered to the sheriff; this notice I give you by order of the Court.

They received the dreadful sentence with much firmness and composure, and were immediately conducted to the Castle.

The following account of the execution of Robert Watt is taken from the New Annual Register for the year 1794:—

"Edinburgh, October 16.—Yesterday, about half-past one o'clock, the two junior magistrates, with white rods in their hands, white gloves, &c., the Rev. Principal Baird, and a number of constables, attended by the town officers, and the city guard lining the streets, walked in procession from the council chamber to the east end of the Castle-hill, when a message was sent to the sheriff in the Castle, that they were there waiting to receive the prisoner, Robert Watt. He was immediately placed in a hurdle, with his back to the horse, and the executioner, with a large axe in his hand, took his seat opposite to him at the farther end of the hurdle.

"The procession then set out from the Castle, the sheriffs walking in front, with white rods in their hands, white gloves, &c.; a number of country constables surrounding the hurdle, and the military keeping off the



crowd. In this manner they proceeded till they joined the magistrates, when the military returned to the Castle, and then the procession was conducted in the following order:—The city constables; town officers bare-headed; bailie Lothian, and bailie Dalrymple; Rev. Principal Baird; Mr. Sheriff Clerk, and Mr. Sheriff Davidson; a number of country constables; the hurdle painted black, and drawn by a white horse; a number of country constables. The city guard, lined the streets to keep off the crowd.

"When they had reached the Tolbooth door, the prisoner was taken from the hurdle, and conducted into the prison, where a considerable time was spent in devotional exercises. The prisoner then came out upon the platform, attended by the magistrates, the sheriffs, Principal Baird, &c. Some time was

then spent in prayer and singing psalms; after which the prisoner mounted the drop-board, and was launched into eternity.

"When the body was taken down, it was stretched upon a table, and the executioner, with two blows of the axe, severed off the head, which was received into a basket, and then held up to the multitude, while the executioner called aloud '*This is the head of a traitor, and so perish all traitors.*'"—*New Ann. Reg.*, 1794, p. 58. That part of the sentence which relates to being quartered, &c. had been previously remitted.

David Downie, in consequence of the recommendation of the jury by whom he was tried, received his Majesty's Pardon.

**604. The Trial of THOMAS HARDY for High Treason, before the Court holden under a Special Commission of Oyer and Terminer, at the Sessions House in the Old Bailey, on the 28th, 29th, 30th, and 31st days of October, and the 1st, 3d, 4th, and 5th days of November: 35 GEORGE III. A. D. 1794.\***

ON the tenth day of September, 1794, a special commission of Oyer and Terminer was issued under the Great Seal of Great Britain to inquire of certain high treasons and misprisions of treason within the county of Middlesex.

On Thursday, the second of October, the special commission was opened at the Session house in Clerkenwell:

Present,—the right honourable sir James Eyre, knt., lord chief justice of his majesty's court of Common pleas; the right honourable sir Archibald Macdonald, knt. lord chief baron of his majesty's court of Exchequer; the honourable sir Beaumont Hotham, knt. one of the barons of his majesty's court of Exchequer; the honourable sir Francis Buller, bt. one of the justices of his majesty's court of Common pleas; the honourable sir Nash Grose, knt. one of the justices of his majesty's court of King's-bench; the honourable Sir Soulden Lawrence, knt. one of the justices of his majesty's court of King's-bench; and others his majesty's justices, &c.

After the commission had been read, the sheriff delivered in the panel of the grand jury, which was called over, when the following gentlemen were sworn:—

\* Taken in short-hand by Joseph Gurney.

THE GRAND JURY.

Benj. Winthrop, esq.	Samuel Hawkins, esq.
J. H. Schneider, esq.	George Ward, esq.
Edw. Ironside, esq.	Thomas Boddam, esq.
Benj. Kenton, esq.	Jos. Lancaster, esq.
R. H. Boddam, esq.	Robt. Wilkinson, esq.
John Aris, esq.	G. G. Mills, esq.
Wm. P. Allet, esq.	Henry Wright, esq.
John Perry, esq.	John Hatchett, esq.
H. P. Kuff, esq.	R. Stevenson, esq.
Thos. Winslow, esq.	John Campbell, esq.
Thomas Cole, esq.	

Lord Chief Justice Eyre.—Gentlemen of the Grand Inquest;—You are assembled under the authority of the king's commission, which has been issued for the hearing and determining of the offences of high treason, and misprisions of treason against the person and authority of the king.

That which hath given occasion for this commission is that which is declared by a late statute, namely, "That a traitorous and detestable conspiracy has been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion, which has so lately prevailed in France;" a crime of that deep malignity which loudly calls upon the justice of the nation to interpose, "for the better preservation of his majesty's sacred person, and for securing the peace and the laws and liberties of this kingdom."



The first and effective step in this, as in the ordinary criminal proceedings, is, that a grand jury of the country should make public imputation for the king, should diligently inquire, discover, and bring forward to the view of the criminal magistrate, those offences which it is the object of this special commission to hear and to determine.

You are jurors for our sovereign lord the king; you are so styled in every indictment which is presented; but let the true nature of this service be understood. The king commands you to enter upon this inquiry; but the royal authority in this, as in all its other functions, is exerted, and operates ultimately for the benefit of his people. It is the king's object, his duty, to vindicate his peace, his crown, and dignity, because his peace, his crown, and dignity, are the subjects' protection, their security, and their happiness.

It is ultimately for them that the laws have thrown extraordinary fences around the person and authority of the king, and that all attempts against the one or the other are considered as the highest crimes which can be committed, and are punished with a severity which nothing but the *salus populi* can justify.

The business of this day calls upon me (in order that you may the better understand the subject which is to come before you) to open to you the nature of that offence, which I have before spoken of in general.

An ancient statute, 25 Edward 3rd, has declared and defined it. I shall state to you so much of that declaration and definition as appears to me to have any probable relation to the business of this day.

By that statute it is declared to be high treason to compass or imagine the death of the king, provided such compassing and imagining be manifested by some act or acts proved (by two witnesses) to have been done by the party accused in prosecution of that compassing and imagination; that is, from the moment that this wicked imagination of the heart is acted upon, that any steps are taken in any manner conducing to the bringing about and effecting the design, the intention becomes the crime, and the measure of it is full.

These acts or steps are technically denominated overt acts; and the forms of proceeding in cases of this nature, require that these overt acts should be particularly set forth in every indictment of treason; and, from the nature of them, they must constitute the principal head of inquiry for the grand jury.

These overt acts involve them in two distinct considerations; 1st, the matter of fact, of which they consist; in the next place, the relation of that fact to the design.

With respect to the mere matter of fact, it will be for the grand jury to inquire into the true state of it; and I can have very little to offer to your consideration respecting it; and,

with respect to the question, whether the fact has relation to the design, so as to constitute an overt act of this species of treason, which involves considerations both of fact and of law, it is impossible that any certain rule should be laid down for your government; overt acts being in their nature all the possible means which may be used in the prosecution of the end proposed; they can be no otherwise defined, and must remain for ever infinitely various.

Thus far, I can inform you: that occasions have unhappily, but too frequently, brought overt acts of this species of treason under consideration; in consequence of which we are furnished with judicial opinions upon many of them? and we are also furnished with opinions (drawn from these sources) of test writers—some of the wisest and most enlightened men of their time, whose integrity has been always considered as the most prominent feature of their character, and whose doctrines do now form great land-marks, by which posterity will be enabled to trace, with a great degree of certainty, the boundary lines between high treason, and offences of a lower order and degree.

It is a fortunate circumstance that we are thus assisted; for it is not to be dissembled that, though the crime of high treason is "the greatest crime against faith, duty, and human society," and though, "the public is deeply interested in every prosecution of this kind well founded," there hath been, in the best times, a considerable degree of jealousy on the subject of prosecutions for high treason; they are state prosecutions, and the consequences to the party accused are penal in the extreme.

Jurors and judges ought to feel an extraordinary anxiety that prosecutions of this nature should proceed upon solid grounds. I can easily conceive, therefore, that it must be a great relief to jurors placed in the responsible situation in which you now stand bound to do justice to their country and to the persons accused, and anxious to discharge this trust faithfully; sure I am that it is consolation and comfort to us, who have upon us the responsibility of declaring what the law is, in cases in which the public and the individual are so deeply interested; to have such men as the great sir Matthew Hale, and an eminent judge of our own times, who, with the experience of a century concurs with him in opinion, sir Michael Foster, for our guides.

To proceed by steps: from these writers upon the law of treason (who speak, as I have before observed, upon the authority of adjudged cases) we learn, that not only acts of immediate and direct attempt against the king's life are overt acts of compassing his death, but that all the remoter steps, taken with a view to assist, to bring about the actual attempt, are equally overt acts of this species of treason; even the meeting and the consulting what steps should be taken in order to



bring about the end proposed, has been always deemed to be an act done in prosecution of the design, and as such an overt act of this treason—This is our first step in the present inquiry. I proceed to observe that the overt acts I have been now speaking of have reference, nearer or more remote, to a direct and immediate attempt upon the life of the king; but that the same authority informs us that they who aim directly at the life of the king (such, for instance, as the persons who were concerned in the assassination plot, in the reign of king William) are not the only persons who can be said to compass or imagine the death of the king. The entering into measures which, in the nature of things, or in the common experience of mankind, do obviously tend to bring the life of the king into danger, is also compassing and imagining the death of the king; and the measures which are taken will be at once evidence of the compassing, and overt acts of it.

The instances which are put by sir Matthew Hale and sir Michael Foster (and upon which there have been adjudged cases) are of conspiracies to depose the king; to imprison him; to get his person into the power of the conspirators; to procure an invasion of the kingdom. The first of these, apparently the strongest case, and coming the nearest to the direct attempt against the life of the king; the last, the farthest removed from that direct attempt, but being a measure tending to destroy the public peace of the country to introduce hostilities, and the necessity of resisting force by force, and where it is obvious, that the conflict has an ultimate tendency to bring the person and life of the king into jeopardy; it is taken to be a sound construction of the statute 25 Edward 3rd, and the clear law of the land, that this is also compassing and imagining the death of the king.

If a conspiracy to depose or to imprison the king, to get his person into the power of the conspirators, or to procure an invasion of the kingdom, involves in it the compassing and imagining of his death and if steps taken in prosecution of such a conspiracy are rightly deemed overt acts of the treason of imagining and compassing the king's death: need I add, that if it should appear that it has entered into the heart of any man who is a subject of this country, to design, to overthrow the whole government of the country, to pull down and to subvert from its very foundations the British monarchy, that glorious fabric which it has been the work of ages to erect, maintain and support, which has been cemented with the best blood of our ancestors; to design such a horrible ruin and devastation, which no king could survive, a crime of such a magnitude that no lawgiver in this country hath ever ventured to contemplate it in its whole extent; need I add, I say, that the complication and the enormous extent of such a design will not prevent its being distinctly seen, that the compassing and imagining the death

of the king is involved in it, is, in truth, of its very essence.

This is too plain a case to require farther illustration from me. If any man of plain sense, but not conversant with subjects of this nature, should feel himself disposed to ask whether a conspiracy of this nature is to be reached by this medium only; whether it is a specific treason to compass and imagine the death of the king, and not a specific treason to conspire to subvert the monarchy itself; I answer, that the statute of Edward 3rd, by which we are governed, hath not declared this (which in all just theory of treason is the greatest of all treasons) to be high treason.

I said no lawgiver had ever ventured to contemplate it in its whole extent; the *restitutio regni*, spoken of by some of our ancient writers, comes the nearest to it, but falls far short of it; perhaps if it were now a question whether such a conspiracy should be made a specific treason, it might be argued to be unnecessary: that in securing the person and authority of the king from all danger, the monarchy, the religion and laws of our country are incidentally secured; that the constitution of our government is so framed, that the imperial crown of the realm is the common centre of the whole; that all traitorous attempts upon any part of it are instantly communicated to that centre, and felt there; and that, as upon every principle of public policy and justice they are punishable as traitorous attempts against the king's person or authority, and will, according to the particular nature of the traitorous attempt, fall within one or other of the specific treasons against the king, declared by the statute of 25 Edward 3rd; this greatest of all treasons is sufficiently provided against by law.

Gentlemen, I presume, I hardly need give you this caution, that though it has been expressly declared, by the highest authority, that there do exist in this country men capable of meditating the destruction of the constitution under which we live; that declaration, being extrajudicial, is not a ground upon which you ought to proceed.

In consequence of that declaration it became a public and indispensable duty of his majesty to institute this solemn proceeding, and to impose upon you the painful task of examining the accusations which shall be brought before you; but it will be your duty to examine them in a regular judicial course, that is, by hearing the evidence, and forming your own judgment upon it.

And here, as I do not think it necessary to trouble you with observations upon the other branches of the statute 25 Edward 3rd, the charge to the grand inquest might conclude; had not the particular nature of the conspiracy, alleged to have been formed against the state, been disclosed, and made matter of public notoriety by the reports of the two houses of parliament, now in every one's



hands: but that being the case, I am apprehensive that I shall not be thought to have fulfilled the duty, which the judge owes to the grand jury, when questions in the criminal law arise on new and extraordinary cases of fact, if I did not plainly and distinctly state what I conceive the law to be, or what doubts I conceive may arise in law, upon the facts which are likely to be laid before you, according to the different points of view in which those facts may appear to you.

It is matter of public notoriety that there have been associations formed in this county, and in other parts of the kingdom, the professed purpose of which has been a change in the constitution of the Commons House of Parliament, and the obtaining of annual parliaments; and that to some of these associations other purposes, hidden under this veil, purposes the most traitorous, have been imputed; and that some of these associations have been supposed to have actually adopted measures of such a nature, and to have gone into such excesses, as will amount to the crime of high treason.

If there be ground to consider the professed purpose of any of these associations, a reform in parliament, as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country; the case of those embarked in such designs is that which I have already considered. Whether this be so, or not, is mere matter of fact; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a mere veil, under which is concealed a traitorous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence. On the other hand, where the charge can be made out, it is adding to the crime meditated the deepest dissimulation and treachery, with respect to those individuals, who may be drawn in to embark in the ostensible purpose, as well as to the public, against which this dark mystery of wickedness is fabricated.

But if we suppose these associations to adhere to the professed purpose, and to have no other primary object, it may be asked, is it possible, and (if it be possible) by what process is it, that an association for the reform of parliament can work itself up to the crime of high treason? All men may, nay, all men must, if they possess the faculty of thinking, reason upon every thing which sufficiently interests them to become objects of their attention, and among the objects of the attention of free men, the principles of government, the constitution of particular governments, and, above all, the constitution of the government under which they live, will natu-

rally engage attention, and provoke speculation. The power of communication of thoughts and opinions is the gift of God, and the freedom of it is the source of all science, the first fruits and the ultimate happiness of society; and therefore it seems to follow, that human laws ought not to interpose, nay, cannot interpose, to prevent the communication of sentiments and opinions in voluntary assemblies of men; all which is true, with this single reservation, that those assemblies are to be so composed, and so conducted, as not to endanger the public peace and good order of the government under which they live; and I shall not state to you that associations and assemblies of men, for the purpose of obtaining a reform in the interior constitution of the British parliament, are simply unlawful; but, on the other hand, I must state to you, that they may but too easily degenerate, and become unlawful, in the highest degree, even to the enormous extent of the crime of high treason.

The process is very simple: let us imagine to ourselves this case: a few well meaning men conceive that they and their fellow subjects labour under some grievance; they assemble peaceably to deliberate on the means of obtaining redress; the numbers increase; the discussion grows animated, eager, and violent; a rash measure is proposed, adopted, and acted upon; who can say where this shall stop, and that these men, who originally assembled peaceably, shall not finally, and suddenly too, involve themselves in the crime of high treason? It is apparent how easily an impetuous man may precipitate such assemblies into crimes of unforeseen magnitude, and danger to the state; but, let it be considered, that bad men may also find their way into such assemblies, and use the innocent purposes of their association as the stalking horse to their purposes of a very different complexion. How easy for such men to practise upon the credulity and the enthusiasm of honest men, lovers of their country, loyal to their prince, but eagerly bent upon some speculative improvements in the frame, and internal mechanism of the government? If we suppose bad men to have once gained an ascendancy in an assembly of this description, popular in its constitution, and having popular objects; how easy is it for such men to plunge such an assembly into the most criminal excesses? Thus far I am speaking in general, merely to illustrate the proposition, that men who assemble in order to procure a reform of parliament may involve themselves in the guilt of high treason.

The notoriety to which I have alluded leads me to suppose, that the project of a convention of the people to be assembled under the advice and direction of some of these societies, or of delegations from them, will be the leading fact, which will be laid before you in evidence, respecting the conduct, and measures of these associations; a project, which perhaps, in better times, would have been hardly



thought worthy of grave consideration: but, in these our days, having been attempted to be put in execution in a distant part of the united kingdoms, and, with the example of a neighbouring country before our eyes; is deservedly become an object of the jealousy of our laws: it will be your duty to examine the evidence on this head very carefully, and to sift it to the bottom; to consider every part of it in itself, and as it stands connected with other parts of it, and to draw the conclusion of fact, as to the existence, the nature, and the object of this project of a convention, from the whole.

In the course of the evidence you will probably hear of bodies of men having been collected together, of violent resolutions voted at these and at other meetings, of some preparation of offensive weapons, and of the adoption of the language, and manner of proceeding of those conventions in France, which have possessed themselves of the government of that country: I dwell not on these particulars, because I consider them, not as substantive treasons, but, as circumstances of evidence, tending to ascertain the true nature of the object which these persons had in view, and also the true nature of this project of a convention, and to be considered by you in the mass of that evidence; which evidence it does not fall within the province of the charge to consider in detail; my present duty is, to inform you what the law is upon the matter of fact, which in your judgment shall be the result of the evidence.

I presume that I have sufficiently explained to you, that a project to bring the people together in convention, in imitation of those national conventions which we have heard of in France, in order to usurp the government of the country, and any one step taken towards bringing it about, such as, for instance, consultations, forming of committees to consider of the means, acting in those committees, would be a case of no difficulty that it would be the clearest high treason; it would be compassing and imagining the king's death, and not only his death, but the death and destruction of all order, religion, laws, all property, all security for the lives and liberties of the king's subjects.

That which remains to be considered is, the project of a convention having for its sole object the effecting a change in the mode of representation of the people in parliament, and the obtaining that parliaments should be held annually; and here there is room to distinguish. Such a project of a convention, taking it to be criminal, may be criminal in different degrees, according to the case in evidence, from whence you are to collect the true nature and extent of the plan, and the manner in which it is intended to operate; and it will become a question of great importance, under what class of crimes it ought to be ranged.

In determining upon the complexion and

quality of this project of a convention, you will lay down to yourselves one principle which is never to be departed from, that alterations in the representation of the people in parliament, or in the law for holding parliaments, can only be effected by the authority of the King, Lords, and Commons, in parliament assembled. This being taken as a foundation, it seems to follow as a necessary consequence, that a project of a convention, which should have for its object the obtaining a parliamentary reform without the authority of parliament, and steps taken upon it, would be high treason in all the actors in it; for this is a conspiracy to overturn the government. The government cannot be said to exist, if the functions of legislation are usurped for a moment; and it then becomes of little consequence indeed, that the original conspirators, perhaps, had only meditated a plan of moderate reform: it is in the nature of things, that the power should go out of their hands, and be beyond the reach of their control. A conspiracy of this nature is therefore, at best, a conspiracy to overturn the government, in order to new model it, which is, in effect, to introduce anarchy, and that which anarchy may chance to settle down into; after the king may have been brought to the scaffold, and after the country may have suffered all the miseries which discord and civil war shall have produced.

Whether the project of a convention, having for its object the collecting together a power which should overawe the legislative body, and extort a parliamentary reform from it, if acted upon, will also amount to high treason, and to the specific treason of compassing and imagining the king's death, is a more doubtful question. Thus far is clear; a force upon the parliament must be immediately directed against the king, who is an integral part of it; it must reach the king, or it can have no effect at all. Laws are enacted in parliament by the king's majesty, by and with the advice and consent of the Lords and Commons, in parliament assembled. A force meditated against the parliament, is therefore a force meditated against the king, and seems to fall within the case of a force meditated against the king, to compel him to alter the measures of his government: but, in that case, it does not appear to me that I am warranted by the authorities to state to you, as clear law, that the mere conspiracy to raise such a force, and the entering into consultations respecting it, will alone, and without actually raising the force, constitute the crime of high treason. What the law is in that case, and what will be the effect of the circumstance of the force being meditated against the king in parliament, against the king in the exercise of the royal function in a point which is of the very essence of his monarchy, will be fit to be solemnly considered, and determined when the case shall arise.

It may be stated to you as clear, that the pro-



ject of a convention, having for its sole object a dutiful and peaceable application to the wisdom of parliament on the subject of a wished-for reform, which application should be entitled to weight and credit from the universality of it, but should still leave to the parliament the freest exercise of its discretion to grant or to refuse the prayer of the petition (great as the responsibility will be on the persons concerned in it, in respect of the many probable, and all the possible, bad consequences of collecting a great number of people together, with no specific legal powers to be exercised, and under no government but that of their own discretion), cannot in itself merit to be ranked among that class of offences which we are now assembled to hear and determine.

Upon this last statement of the fact of the case, I am not called upon, and therefore it would not be proper for me to say more.

Gentlemen, you will now proceed upon the several articles of inquiry, which have been given you in charge; if you find that the parties, who shall be accused before you, have been pursuing lawful ends by lawful means, or have been only indiscreet, or at the worst if criminal, that they have not been criminal to the extent of those treasons to which our inquiries are confined, then say, that the bills which shall be presented to you are not true bills; but, if any of the accused persons shall appear to you to have been engaged in that traitorous and detestable conspiracy described in the preamble of the late statute; or, if without any formed design to go the whole length of that conspiracy, they have yet acted upon the desperate imagination of bringing about alterations in the constitution of the commons house of parliament, or in the manner of holding parliaments without the authority of parliament, and, in defiance of it, by an usurped power, which should, in that instance, suspend the lawful authority of the king, lords, and commons, in parliament assembled, and take upon itself the function of legislation (which imagination amounts to a conspiracy to subvert the existing laws and constitution, differing from the former only in the extent of its object), you will then do that which belongs to your office to do.

In the third view of the case of the accused persons, that is, if you find them involved in, and proceeding upon, a design to collect the people together against the legislative authority of the country, for the purpose, not of usurping the functions of the legislature, but of overawing the parliament, and so compelling the king, lords, and commons, in parliament assembled, to enact a law for new modelling the commons house of parliament, or for holding annual parliaments; and that charges of high treason are offered to be maintained against them upon this ground only: perhaps it may be fitting that, in respect of the extraordinary nature and dangerous extent and very criminal complexion of such a conspiracy, that case, which I state to you as

VOL. XXIV.

a new and a doubtful case, should be put into a judicial course of inquiry, that it may receive a solemn adjudication, whether it will, or will not, amount to high treason, in order to which the bills must be found to be true bills.

Gentlemen, I have not opened to you the law of misprision of treason, because I am not aware that there are any commitments for that offence; and therefore I have no reason to suppose that there will be any prosecution for that offence. It consists of the concealment of treason committed by others (which undoubtedly it is every man's duty to disclose), and the punishment is extremely severe; but the humanity of modern times hath usually interposed, and I trust that the necessities of the present hour will not demand, that the law of misprision of treason should now be carried into execution.

Gentlemen, I dismiss you with confident expectation that your judgment will be directed to those conclusions which may clear innocent men from all suspicion of guilt, bring the guilty to condign punishment, preserve the life of our gracious sovereign, secure the stability of our government, and maintain the public peace, in which comprehensive term is included the welfare and happiness of the people under the protection of the laws and liberties of the kingdom.\*

\* Immediately after the publication of this charge, appeared a short examination of the doctrines maintained in it, under the title of "Cursory Strictures on the Charge delivered by lord chief justice Eyre to the Grand Jury, October 2, 1794." This tract, although now somewhat scarce, drew much attention, and excited much interest at the time; I have sufficient authority for stating that it was composed by the late Mr. Felix Vaughan, who it will be observed was appointed counsel for one of the persons arraigned, and who acted as assistant counsel on this and the following trial.

It is as follows:

#### CURSORY STRICTURES, &c.

A special commission was opened on the second day of October, for the trial of certain persons apprehended upon suspicion of high treason, the greater part of whom were taken into custody in the month of May, 1794. Upon this occasion a charge was delivered to the grand jury, by sir James Eyre, lord chief justice of the court of Common Pleas.

It is one of the first privileges of an Englishman, one of the first duties of a rational being, to discuss with perfect freedom, all principles proposed to be enforced upon general observance, when those principles are first disclosed, and before they have yet, by any solemn and final proceeding, been made part of a regular established system. The chief justice, in his charge to the jury, has delivered many new and extraordinary doctrines upon the subject of treason. These doctrines, now

P



The sheriff returned into the court the panel of the petit jurors.

On Monday, October the sixth, the grand jury returned a true bill against Thomas

when they have been for the first time stated, it is fit we should examine. In that examination, I shall deliver my opinions in a manner perfectly frank and explicit. No man should seek to offend high authorities and elevated magistracy; but the object before us is of an importance paramount to these considerations. Decorum is an excellent thing; but we ought not to sacrifice to the fastidious refinements of decorum, all that is most firm in security, or most estimable in social institution.

The chief justice has promised a publication of his charge, and I should have been glad to have waited for the opportunity of an authentic copy. But there are only a few days remaining previous to the commencement of trials, of the highest expectation, and most unlimited importance. He who thinks, as I think, that the best principles of civil government, and all that our ancestors most affectionately loved, are struck at in the most flagrant manner in this charge, will feel that there is not an hour to be lost. While I animadvert upon its enormities, it is with some pleasure that I shall reflect upon the possibility of the enormities being aggravated or created by the imperfect and irregular form of the publication before me. Every friend of his country will participate the highest satisfaction, at finding them answered, by a regular publication of the charge to the grand jury, stripped of the illegal and destructive doctrines that now appear to pollute it.

Among the various branches of the English constitution that have for centuries been a topic of unbounded praise, there is none, that has been more, or more deservedly, applauded, than that which relates to the law of treason. "The crime of high treason," says chief justice Eyre, "though the greatest crime against faith, duty, and human society, and though the public is deeply interested in every well-founded prosecution of this kind, has yet, at the best times, been the object of considerable jealousy, in respect of the prosecutions instituted against it; they are state prosecutions." It is therefore of the utmost consequence, that the crime of high treason should be clearly defined, and the exquisite jealousy allayed, which must otherwise arise in every benevolent mind. This has been done

\* "He adds, 'it is not to be dissembled,'—Will any one venture to say, that the judges of England would dissemble, if they could, in matters of the utmost value to the subject; and that it is with reluctance they confess any thing, that tends most to general security, equity, and welfare?"

Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, John Thelwall, Richard Hodgson, and John Baxter, for high treason.

by the act 25 Edward 3rd, one of the great palladiums of the English constitution. This law has been sanctioned by the experience of more than four centuries; and, though it has been repeatedly attacked by the encroachments of tyrannical princes, and the decisions of profligate judges, Englishmen have always found it necessary in the sequel to strip it of mischievous appendages and artificial glosses and restore it to its original simplicity and lustre. By this law all treason, exclusively of a few articles of little general concern, is confined to the 'levying war against the king within the realm, and the compassing or imagining the death of the king.' Nay, the wise framers of the law were not contented to stop here: they not only shut out the mischief of arbitrary and constructive treason for themselves, but inserted a particular clause, providing that 'if in any future time it might be necessary to declare any new treasons, that should only be done by a direct proceeding of parliament for that special purpose.'"

It is obvious upon the face of this wise and moderate law, that it made it extremely difficult for a bad king, or an unprincipled administration, to gratify their resentment against a pertinacious opponent by instituting against him a charge of treason. Such kings and ministers would not fail to complain, that the law of Edward 3rd shut up the crime within too narrow bounds; that a subtle adversary of the public peace would easily evade these gross and palpable definitions; and that crimes of the highest magnitude, and most dangerous tendency, might be committed, which could never be brought under these dry, short, and inflexible classes. It is not to be denied, that some mischief might arise from so careful, lenient, and unbloody a provision. No doubt offences might be conceived, not less dangerous to the public welfare, than those described in the act under consideration. But our ancestors exposed themselves to this inconvenience, and found it by no means such as was hard to be borne. They experienced a substantial benefit, a proud and liberal security, arising out of this statute, which amply compensated for the mischief of such subtleties as might occasionally be employed by a few insignificant criminals. If we part with their wisdom and policy, let us beware that we do not substitute a mortal venom in its stead.

The chief justice has thought proper to confine himself to that article of the statute of king Edward 3rd which treats of "compassing and imagining the death of the king." This compassing and imagining he very properly observes, "requires that it should be manifested by overt acts;" and he adds,



The bill of indictment was not found against John Lovett.

On Tuesday, October the seventh, Thomas

"that they who aim directly at the life of the king, are not the only persons, who may be said to compass or imagine his death. The entering into measures, which in the nature of things do obviously tend to bring the life of the king into danger, is also compassing and imagining the death of the king; and the measures which are taken, will be at once evidence of the compassing and overt acts of it. The instances which are put under this head by sir Michael Foster and sir Matthew Hale, and upon which there have been adjudged cases, are [principally four, viz.] of a conspiracy to depose the king, to imprison him, to get his person into the power of the conspirators, and to procure an invasion of the kingdom." He further states, "that occasions have unhappily, but too frequently brought overt acts of this species of treason under consideration, in consequence of which we are furnished with judicial opinions upon many of them. We are also furnished with *spinnans* drawn from these sources, of text writers, some of the wisest and most enlightened men of their time, whose integrity has always been considered as the most prominent feature of their character, and whose doctrines do now form great land marks, by which posterity will be enabled to trace with considerable certainty the boundary line between high treason, and offences of a lower order and degree. It is a fortunate circumstance," concludes the chief justice, "that we are thus assisted. I can easily conceive that it must be a great relief to jurors, placed in the responsible situation in which you now stand; and am I am that it is a consolation and comfort to us, who have upon us the responsibility of declaring what the law is, in cases in which the public and the individual are so deeply interested."

In all this preamble of the chief justice, there is certainly something extremely humane and considerate. I trace in it the language of a constitutional lawyer, a sound logician, and a temperate, discreet, and honest man. I see rising to my view by just degrees a judge testing upon the law as it is, and determinedly setting his face against new, unprecedented and temporizing constructions. I see a judge who scorns to bend his neck to the yoke of any party, or any administration; who expounds the unalterable principles of justice, and is prepared to try by them, and them only, the persons that are brought before him. I see him taking to himself, and holding out to the jury the manly consolation that they are to make no new law, and force no new interpretations; that they are to consult only the statutes of the realm, and the decisions of those writers who have been the luminaries of England.

Holcroft voluntarily surrendered himself in court, and was committed to Newgate.

At the request of the several prisoners the

Meanwhile what would be said by our contemporaries and by our posterity, if this picture were to be reversed; if these promises were made, only to render our disappointment more bitter; if these high professions served merely as an introduction to an unparalleled mass of arbitrary constructions, of new-langled treasons, and doctrines equally inconsistent with history and themselves: I hope these appearances will not be found in the authentic charge. But whoever be the unprincipled impostor, that thus audaciously saps the vitals of human liberty and human happiness, be he printer, or be he judge, it is the duty of every friend to mankind to detect and expose his sophistries.

Chief Justice Eyre, after having stated the treasons which are most strictly within the act of Edward 3rd, as well as those which are sanctioned by high law authorities, and upon which there have been adjudged cases, proceeds to reason in the following manner:

"If a conspiracy to depose or imprison the king, to get his person into the power of the conspirators, or procure an invasion of the kingdom, involves in it the compassing and imagining his death, and if steps taken in prosecution of such a conspiracy, are rightly deemed overt acts of the treason of compassing the king's death, what ought to be our judgment, if it should appear that it had entered into the heart of any man, who is a subject of this country, to design to overthrow the whole government of the country, to pull down and to subvert from its very foundations the British monarchy, that glorious fabric, which it has been the work of ages to erect, maintain, and support; which has been cemented with the best blood of our ancestors; to design such a horrible ruin and devastation, which no king could survive."

Here we are presented with a question which is no doubt of the utmost magnitude and importance. Is the proceeding thus described matter of high treason, or is it not? It confessedly does not come within the letter of 25 Edward 3rd. It does not come within the remoter instances "upon which there have been adjudged cases." Chief Justice Eyre has already enumerated these, and, having finished that part of his subject, gone on to something confessedly different.

Are we reasoning respecting law, or respecting a state of society, which, having no fixed rules of law, is obliged to consult the dictates of its own discretion? Plainly the former. It follows, therefore, that the aggravations collected by the chief justice, are totally foreign to the question he had to consider. Let it be granted, that the crime, in the eye of reason and discretion, is the most enormous, that it can enter into the heart of



following gentlemen were assigned by the Court as their counsel:—for,

Thomas Hardy,—Mr. Erskine, Mr. Gibbs.

John Horne Tooke,—Mr. Erskine, Mr. Gibbs.

man to conceive, still I shall have a right to ask is it a crime against law? Show me the statute that describes it; refer me to the precedent by which it is defined; quote me the adjudged case in which a matter of such unparalleled magnitude is settled.

Let us know the ground upon which we stand. Are we to understand that, under chief justice Eyre, and the other judges of the special commission, reasonings are to be adduced from the axioms and dictums of moralists and metaphysicians, and that men are to be convicted, sentenced, and executed, upon these? Are we to understand that henceforth the man most deeply read in the laws of his country, and most assiduously conforming his actions to them, shall be liable to be arraigned and capitally punished for a crime that no law describes, that no precedent or adjudged case ascertains, at the arbitrary pleasure of the administration for the time being? Such a miserable miscellany of law and metaphysical maxims, would be ten thousand times worse, than if we had no law to direct our actions. The law in that case would be a mere trap to delude us to our ruin creating a fancied security, an apparent clearness and definition, the better to cover the concealed pitfalls with which we are on every side surrounded.

The chief justice is by no means unaware of the tremendous consequences that would result from such an administration of criminal law. He speaks respecting it, when the subject is first started, with great temperance and caution. He says, "That the crime of conspiring to overthrow the monarchy, is such an one, as no lawgiver in this country has ever ventured to contemplate in its whole extent. If any man of plain sense, but not conversant with subjects of this nature, should feel himself disposed to ask, whether a conspiracy of this extraordinary nature is to be reached by the statute of treasons, whether it is a specific treason to compass and imagine the death of the king, and not a specific treason to conspire to subvert the monarchy itself? I answer, that the statute of Edward 3rd, by which we are bound, has not declared this, which undoubtedly in all just theory of treason is the greatest of all treasons, to be a specific high treason. I said, no lawgiver had ever ventured to contemplate it in its whole extent."

The language here employed is no doubt manly and decisive. From hence it follows, with the most irresistible evidence, that that "which the statute by which we are bound, has not declared to be treason," that "which no lawgiver has ever ventured to contemplate," can never be construed into treason,

John Augustus Bonney,—Mr. Erskine, Mr. Gibbs.

Stewart Kyd,—Mr. Erskine, Mr. Gibbs.

Jeremiah Joyce,—Mr. Erskine, Mr. Felix Vaughan.

till all law is annihilated, and all maxims of jurisprudence trampled under foot and despised.

No author has reasoned with greater accuracy, and in a more satisfactory manner upon this important branch of the English constitution than the celebrated David Hume, in his History of England. This author is well known to have been sufficiently favourable to the prerogative, yet his reasonings upon this subject, in the case of lord Strafforde, are as minutely applicable to the case before us, as if he had written them with the proceedings of the special commission of October, 1794, lying before him upon his table.

"Of all species of guilt, the law of England has, with the most scrupulous exactness, defined that of treason; because on that side it was found most necessary to protect the subject against the violence of the king and of his ministers. In the famous statute of Edward 3rd, all the kinds of treasons are enumerated; and every other crime, beside such as are there expressly mentioned, is carefully excluded from that appellation. But with regard to this guilt *An endeavour to subvert the fundamental laws*, the statute of treason is totally silent; and arbitrarily to introduce it into the fatal catalogue, is itself a subversion of all law; and, under colour of defending liberty, reverses a statute the best calculated for the security of liberty, that was ever enacted by an English parliament." Vol. vi. chap. liv. p. 403.

The following are a few sentences from the defence of lord Strafforde, as quoted by Mr. Hume, a nobleman, whom the republicans of that time so vehemently hated, and were so fixed to destroy, as to render them little scrupulous of overstepping the simple and unbending provisions of the law.

"Where has this species of guilt lain so long concealed? Where has this fire been so long buried, during so many centuries, that no smoke should appear till it burst out at once to consume me and my children? Better it were to live under no law at all, and, by the maxims of cautious prudence, to conform ourselves the best we can to the arbitrary will of a master, than fancy we have a law on which we can rely, and find at last, that this law shall inflict a punishment precedent to the promulgation, and try us by maxims unheard of till the very moment of the prosecution. Where is the mark set upon this crime? Where the token by which I should discover it? It has lain concealed; and no human prudence, no human innocence, could save me from the destruction with which I am at present threatened."

"It is now full two hundred and forty



Thomas Holcroft,—Mr. Erskine, Mr. Gibbs.  
John Richter,—Mr. Erskine, Mr. Gibbs.  
John Thelwall,—Mr. Erskine, Mr. Gibbs.  
John Baxter,—Mr. Erskine, Mr. Gurney.

years since treasons were defined. Let us be content with what our fathers left us; let not our ambition carry us to be more learned than they were, in these killing and destructive arts! To all my afflictions add not this, my lords, the most severe of any, that I, for my other sins, not for my treasons, be the means of introducing a precedent so pernicious to the laws and liberties of my native country!" *Ibid.*

Chief Justice Eyre's charge consists of three parts. The first five pages contain principally a sound and constitutional exposition of the law of treason, as exhibited in the books. In the two following pages we are presented with this portentous speculation, this new treason of "conspiring to subvert the monarchy;" though the chief justice, as has already appeared, has qualified his speculation, with expressions, proving, by accumulated evidence, and in the most precise terms, that this new imaginary treason is no treason by the laws of England.

Here, as the chief justice observes, the charge might have concluded. Here, if a proper regard had been paid to the essential principles of criminal justice, it would have concluded; if not in reality a little sooner. The remainder of the charge is made up of hypothesis, presumption, prejudication, and conjecture. There is scarcely a single line that is not deformed with such phrases as "public notoriety," "things likely," "purposes imputed," "measures supposed," and "imaginary cases."

The plain reason of all this is, that the chief justice suspected, that the treason described in the statute 25 Edward 3rd, and those founded upon precedent, or deducible from adjudged cases, even with the addition of the chief justice's new constructive treason, founded, as he confesses, upon no law, precedent, or case, and which therefore is in reality no treason, did not afford sufficient ground of crimination against the prisoners. He is therefore obliged to leave the plain road, and travel out of the record. No law, no deduction, or construction of law, that could be forced or drawn out of a mere view of the statute, would answer the purposes of the special commission. He is therefore obliged to indulge himself in conjecture, as to what the prisoners may have done, and what are "the facts likely to be laid before the jury." Two flagrant iniquities are included in this mode of proceeding. First, the chief justice implicitly confesses himself unable, by direct deductions of law, to show us what it is we ought to avoid, and is reduced to the necessity of reasoning, not forward from general rules of action to the guilt or innocence of particular men, but backward from actions al-

Thomas Wardle, Matthew Moore, and Richard Hodgson, were not in custody.

On Monday, October the thirteenth, Mr.

ready performed to the question, whether or no they shall fall under such or such provisions of law. Secondly, by this perverted mode of proceeding, he completely prejudges the case of the prisoners. He does not proceed, as a judge ought to proceed, by explaining the law, and leaving the grand jury to fix its application upon individuals; but leads them to the selection of the individuals themselves, and centres in his own person the provinces of judge and accuser. It may be doubted whether, in the whole records of the legal proceedings of England, another instance is to be found, of such wild conjecture, such premature presumption, imaginations so licentious, and dreams so full of sanguinary and tremendous prophecy.

The conjectures of the chief justice respecting the probable guilt of the accused fall under two heads. First, "associations, the professed purpose of which has been a change in the constitution of the Commons House of Parliament, and the obtaining of Annual parliaments." Secondly, "the project of a convention to be assembled under the advice and direction of some of these associations."

The treasons which the chief justice imagines himself capable of fixing upon some of these associations for a parliamentary reform, are of two kinds.

Before we enter upon these, let us pause a moment, and consider the unexplored country before us. Every paragraph now presents us with a new treason, real or imaginary, pretendedly direct, or avowedly constructive. Division and subdivision rise upon us, and almost every one is concluded with the awful denunciation of treason. The chief justice is no longer contented with the plain treasons of 25 Edward 3rd, or the remoter treasons of Foster and Hale. His whole discourse hangs by one slender thread. He perpetually refers to the new and portentous treason of his own mere creation, "a conspiracy to subvert the monarchy;" a treason, which he ingenuously avows "no lawgiver in this country has ever ventured to contemplate," and "the statute of Edward 3rd, by which we are bound, has not declared." Upon this self-constituted treason he hangs his other conjectures and novelties as well as he is able, by the help of forced constructions, of ambiguous and deceitful words, and all the delusions of a practised sophister. Was it necessary for the destruction of twelve private and untitled men, to create all this confusion, to produce all this ruin, to overturn every thing that is valuable in English liberty, and place us for time coming under the most atrocious and inexplicable despotism that the world ever saw?

Let us attend to the opinion of judge Blackstone upon this subject.



White, solicitor for the treasury, delivered to each of the prisoners a copy of the indictment, a list of the jurors impanelled by the sheriff, and a list of the witnesses to be produced by the crown for proving the said indictment.

"By the ancient common law, there was a great latitude left in the breast of the judges, to determine what was treason or not so; whereby the creatures of tyrannical princes had opportunity to create abundance of constructive treasons: that is, to raise, by forced and arbitrary constructions, offences into the crime and punishment of treason, which never were suspected to be such. To prevent these inconveniences, the statute 25 Edward 3rd, chap. 2, was made. [Book iv. chap. 6, p. 75.]—This is a great security to the public, and leaves a weighty *memento* to judges to be careful, and not overhasty in, letting in treasons by construction or interpretation, especially in new cases that have not been resolved and settled.—The legislature was extremely liberal in declaring new treasons in the unfortunate reign of king Richard the second; but, in the first year of his successor's reign, an act "was passed, which at once swept away this whole load of extravagant treasons. Afterwards, particularly in the bloody reign of Henry 8th, the spirit of inventing new and strange treasons was revived; all which new-fangled crimes were totally abrogated by the statute 1 Mary, chap. 1; since which time the legislature has become more cautious upon this subject." [P. 85, 86.]

The first mode in which, according to chief justice Eyre, an association for parliamentary reform, may incur the penalties of high treason, is when "other purposes, besides those of parliamentary reform, and of the most traitorous nature, are hidden under this veil." The purposes he may be supposed to mean, are those of his new-fangled treason, of "conspiring to subvert the monarchy." Thus, in the first place, we have an innocent purpose constituting the professed object of this supposed association; and behind that the grand jury are to discover, if they can, a secret purpose, totally unlike that which the associators profess; and this purpose chief justice Eyre declares to be treason, contrary, as he avowedly confesses, to all law, precedent, and adjudicated cases.

The second mode, in which the chief justice is willing to pre-suppose high treason in an association for parliamentary reform is, by such an association, not in its own nature, as he says, "simply unlawful, too easily degenerating, and becoming unlawful in the highest degree."

It is difficult to comment upon this article with the gravity, that may seem due to a magistrate, delivering his opinions from a bench of justice. "An association for parliamentary reform may degenerate, and become unlawful in the highest degree, even to the enormous extent of the crime of high treason." Who

On Friday, October the 24th, Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah Joyce, John Richter and John Thelwall, were removed by habeas corpus from the Tower to Newgate.

knows not that? Was it necessary that chief justice Eyre should come in 1794, so solemnly to announce to us so irresistible a proposition? An association for parliamentary reform may desert its object, and be guilty of high treason. True; so may a card club, a bench of justices, or even a cabinet council. Does chief justice Eyre mean to insinuate, that there is something in the purpose of a parliamentary reform, so unhallowed, ambiguous, and unjust, as to render its well-wishers objects of suspicion, rather than their brethren and fellow subjects? What can be more wanton, cruel, and inhuman, than thus gratuitously to single out the purpose of parliamentary reform, as if it were, of all others, most especially connected with degeneracy and treason?

But what is principally worthy of observation in both these cases, is, the easy and artful manner in which the idea of treason is introduced into them. First, there is a "concealed purpose," or an insensible "degeneracy," supposed to take place in these associations. Next, that "concealed purpose," or insensible "degeneracy," is supposed to tend directly to this end, the "subversion of the monarchy." Lastly, a "conspiracy to subvert the monarchy," is a treason, first discovered by chief justice Eyre in 1794, never contemplated by any lawgiver, or included in any statute. Deny the chief justice any one of his three assumptions, and his whole deduction falls to the ground. Challenge him, or any man living, to prove any of them; and you require of him an impossibility. And it is by this sort of logic, which would be scouted in the rawest graduate in either of our universities, that Englishmen are to be brought under the penalties of treason!

Of these assumptions, the most flagrant perhaps, if in reality there can be any gradation in such groundless assertions, is that which imputes to the associations a "conspiracy to subvert the monarchy." The chief justice knows, for no man is ignorant, that there is not the shadow of evidence of such a conspiracy. If any man in England wishes the subversion of the monarchy, is there a man in England that does not feel, that such subversion, if effected at all, can only be effected by an insensible revolution of opinion? Did these associations plan the murder of the king, and the assassination of the royal family? Where are the proofs of it? But the authors of the present prosecution probably hope, that the mere names of Jacobin and republican will answer their purposes; and that a jury of Englishmen can be found who will send every man to the gallows without exa-



*Sessions House in the Old Bailey, Saturday October 25th, 1794.*

Present,—Lord chief justice Eyre; lord chief baron Macdonald; Mr. baron Hotham;

mination, to whom these appellations shall once have been attributed!

If chief justice Eyre, or his majesty's servants, have any charge of high treason to advance, let them advance it. The purpose of parliamentary reform, as the chief justice confesses, so far from being treasonable, is not "simply unlawful." If the persons now in confinement, have been guilty of high treason, that is the point to which our attention is to be called. Their treason is neither greater nor less, for their being engaged in a lawful object, the associating for a parliamentary reform. Tell us what they have done that is criminal, and do not seek to excite extrajudicial prejudices against them for what is innocent.

Having dismissed the immediate purpose of a parliamentary reform, the chief justice goes on in the last place to consider "the project of a convention, to be assembled under the advice and direction of some of these associations."

And here it was impossible not to recollect, that conventions and meetings of delegates are by no means foreign to the English history; and that twelve or fourteen years ago, many of his majesty's present ministers were deeply engaged in a project of this nature. Accordingly, the chief justice takes a very memorable distinction. He calls it "a project, which in better times would have been hardly thought worthy of grave consideration, but, in these, our days, when it has been attempted to be put in execution in a distant part of the united kingdom, and with the example of a neighbouring country before our eyes, is deservedly become an object of jealousy to the law."

This remark constitutes one of the most flagrant violations of the principles of executive justice, that was ever heard of or imagined. If the times require different measures of justice, we are already instructed by the act 25 Edward 3rd, as to the proceeding fitting to be employed. "The judge," says the act, "shall tarry, without going to judgment of the treason, till the cause be shown and declared before the king and his parliament, whether it ought to be judged treason or other felony." Parliament, the legislative authority of the realm, may make new provisions of law in accommodation to circumstances; but the judges, the bare expounders of the law, are bound to maintain themselves in an atmosphere unaffected by the variations of popular clamour, ministerial vengeance, or the ever-changing nature of circumstances. They are to be severely and unalterably the same. The meaning they found in the statute yesterday, that meaning, and no other,

Mr. justice Buller; Mr. justice Grose; and others of his majesty's justices, &c.

Thomas Hardy, John Horne Tooke, John Augustus Bonney, Stewart Kyd, Jeremiah

they are to find to day. An interpretation, shifting with every gale of accident, may produce undefinable terrors in its miserable victims, may devote its authors to eternal execration, but can have none of the venerable features either of law or justice.

Some of the dreadful consequences involved in this loose and fluctuating interpretation, show themselves in the very next sentence.

"It will be your duty," says the chief justice to the jury, "to examine the evidence on this head very carefully, and to sift it to the bottom: to consider every part of it in itself, and as it stands connected with other parts of it; and to draw the conclusion of fact, as to the existence, the nature and object of this proposed convention, from the whole."

"In the course of the evidence you will probably hear of bodies of men having been collected together, of violent resolutions voted at this and other meetings, of some preparation of offensive weapons, and of the adoption of the language and manners of those conventions in France, which have possessed themselves of the government of that country. I dwell not on these particulars, because I consider them not as substantive treasons, but as circumstances of evidence, tending to ascertain the true nature of the object which these persons had in view."

Here we have set before us, in the most unblushing and undisguised manner, that principle of constructive treason, which has upon all occasions formed an object of execration in English history. Let us hear what Hume says upon the subject in the farther progress of that very passage which has been already quoted.

"As this species of treason, discovered by the Commons, 'in the case of lord Strafford,' is entirely new and unknown to the laws; so is the species of proof by which they pretend to fix that guilt upon the prisoner. They have invented a kind of accumulative or constructive evidence, by which many actions, either totally innocent in themselves, or criminal in a much inferior degree, shall, when united amount to treason, and subject the person to the highest penalties inflicted by the law. A hasty and unguarded word, a rash and passionate action, assisted by the malevolent fancy of the accuser, and tortured by doubtful constructions, is transmuted into the deepest guilt, and the lives and fortunes of the whole nation, no longer protected by justice, are subjected to arbitrary will and pleasure" [p. 403.].

It is not easy to conceive of two passages more parallel to each other, than the doctrines



Joyce, Thomas Holcroft, John Richter, John Thelwall, and John Baxter, were arraigned upon the following indictment, and severally pleaded Not Guilty.

here delivered by chief justice Eyre, and the condemnation pronounced upon them by way of anticipation by the illustrious Hume. Thus, "a hasty and unguarded word,"—"Adoption of the language of the convention in France,"—"A rash and passionate action,"—"Violent resolutions voted at this and other meetings—some preparation of offensive weapons,"—"Actions either totally innocent in themselves, or criminal in a much inferior degree,"—"I consider not these particulars as substantive treasons."

Can any thing be more atrocious, than the undertaking to measure the guilt of an individual, and the interpretation of a plain and permanent law, by the transitory example that may happen to exist "before our eyes in a neighbouring country?"

The chief justice speaks of two sorts of convention. The first, "a convention, in imitation of those which we have heard of in France, in order to usurp the government of the country."

There lurks a memorable ambiguity under this word convention. A convention was held no long time ago, of delegates from the royal burghs in Scotland, to consider of a reformation in the administration of those burghs. Of this convention, the present lord advocate of Scotland, among others, was a member. A convention was proposed in 1780, of delegates from the different county meetings held at that period. Both these conventions were considerably more formidable in their structure than that which is the subject of present animadversion. The royal burghs, and the meetings of freeholders in the several counties, consist of bodies more or less recognized by the constitution, and possessing a degree of inherent authority. The convention proposed in the present instance, was simply of delegates from the different societies, voluntarily associated for the purpose of parliamentary reform. They could possess no inherent authority. The persons who constituted them, must have been actuated by the most perfect insanity, before they could have dreamed of usurping the government of the country. No delusion, therefore, can be more gross, than an attempt to style, as chief justice Eyre styles, such a convention "a convention of the people."

In describing his first sort of convention, the chief justice roundly affirms, "that the project of such a convention, and any one step taken towards bringing it about, such as, for instance, consultations, forming committees to consider of the means, or acting in those committees, would be a case of no difficulty: it would be the clearest high treason; it would be compassing and imagining the king's death; and not only his death, but the

## INDICTMENT.

*Middlesex,* } BE it remembered that at a  
to wit. } special session of Oyer and

death and destruction of all order, religion, and laws, of all property, and security for the lives and liberties of the king's subjects."

There is a figure in speech, of the highest use to a designing and treacherous orator, which has not yet perhaps received a name in the labours of Aristotle, Quintillian, or Farnaby. I would call this figure encroachment. It is a proceeding, by which an affirmation is modestly insinuated at first, accompanied with considerable doubt and qualification; repeated afterwards, unaccompanied with these qualifications; and at last asserted in the most peremptory and arrogant terms. It is thus that chief justice Eyre expresses himself respecting a "conspiracy to overturn the monarchy." It is first a treason, "not declared by the statute 25 Edward 3rd;" a treason "which no lawgiver in this country has ever ventured to contemplate;" a treason, "not resting for its authority upon any law, precedent, or adjudged case." It is not this thing, nor it is not that; "the *sedition regni* spoken of by some of our ancient writers, but which is no part of our law, seems to come the nearest to it," but will not apply. "The particular nature of the traitorous attempt, will fall within one or other of the specific treasons of the statute of Edward 3rd." A strange crime, which the judge knows is provided against by the first or the second principal clause, but is unable to determine whether it is by the former or the latter! Afterwards the chief justice speaks of it with less hesitation; and at last, as we have seen, affirms it to be "a case of no difficulty, and the clearest high treason."

Can any play upon words be more contemptible, than that by which the chief justice, finding the king's death the subject of one of the clauses, and determined to trace at least some remote analogy between that and the subversion of the monarchy, describes the latter by the appellation of "the death and destruction of all order, religion, &c. &c.?"

The second sort of convention in chief justice Eyre's arrangement, is a convention, which, not intending to usurp the government of the country, "has for its sole object the effecting a change in the mode of representation of the people in parliament, and the obtaining that parliaments should be held annually. And here," says the chief justice, "there is room to distinguish. Such a project of convention, taking it to be criminal,"—

"Taking it to be criminal!" Was ever postulate, more extraordinary, or more intolerable? Did ever judge, sitting upon the bench, previously to this instance, assume the whole question; affirm at his case, and without the shadow of an authority, scriptural or nuncupatory, statute or report, the whole cri-



Terminer of our sovereign lord the king of and for the county of Middlesex holden at the Session House on Clerkenwell-green in the said county on Thursday the second day of October in the thirty-fourth year of the reign of our sovereign lord George the Third by the

minality; and then proceed at his leisure to distribute the assumed criminality into all its different degrees? Meanwhile, after this loud and peremptory preamble, the chief justice is obliged to grant, that one sort of convention, one "degree of criminality," "a convention, having for its sole object a dutiful and peaceable application to parliament by petition, cannot of itself be ranked among this class of offences." He dares not affirm that it is to be ranked among any class of offences whatever.—But to proceed to the distinctions he undertakes to enumerate.

The first sort of "Convention, which has for its object the obtaining a parliamentary reform, and that object only, is a convention, proposing to obtain it without the authority of parliament," and for that purpose "usurping, at least in this instance, the functions of legislation." This the chief justice determines, upon just the same grounds as in the preceding instances, "would be high treason in every one of the actors."

After this laborious discussion, chief justice Eyre is not yet satisfied that he has framed a construction, strong enough to ensnare the persons now under confinement. He has heaped distinction upon distinction. He has promulgated at least five or six different classes of treason, not found in the direct provisions of 25 Edward 3rd, or in the remoter instances of Foster and Hale; not supported, as he explicitly confesses, by any law, precedent, or adjudged case. But all this he does in the mere wantonness of his power. If any of the prisoners now under confinement had acted according to all the enumerations of his imaginary cases, it may safely be affirmed, that, upon any sober trial upon a charge of high treason, they must infallibly be acquitted. But the chief justice implicitly confesses, that they have not acted according to any one of his cases. All this profusion of fiction, hypotheses, and prejudication, is brought forward for the sole purpose, either of convincing us of the unparalleled ingenuity of the lord chief justice of his majesty's court of Common Pleas, or to bewilder the imaginations, to throw dust in the eyes, and confound the understandings of the grand jury and the nation. If this last be the purpose conceived, and if it could possibly be supposed that it should be successful for a moment, early would be the repentance, deep the remorse, and severe, it is to be feared, the retribution!

The chief justice then, having hitherto talked of every thing that is not to the purpose, comes at last to speak of the matter in hand. Here he employs all his ingenuity, exerts all his arts, and displays his utmost in-

VOL. XXIV,

grace of God of Great Britain France and Ireland king defender of the faith and so forth before the right honourable sir James Eyre knight chief justice of our said lord the king of his court of Common Pleas the right honourable sir Archibald Macdonald knight

trepidity of countenance. This part of the case is opened as follows:

"Whether the project of a convention, having for its object the collecting together a power which should overawe the legislative body, but not suspend it, or entirely determine its functions, if acted upon, will also amount to high treason, and to the specific treason of compassing and imagining the king's death, is a more doubtful question. Thus far is clear: a force upon the parliament, must be immediately directed against the king. It must reach the king, or it can have no effect at all. The laws are enacted in parliament by the king's majesty, by and with the advice and consent of the Lords and Commons in parliament assembled. A force meditated against the parliament, therefore, is a force meditated against the king, and seems to fall within the cases described."

Nothing can be more gross to the view of any one who will attentively read this paragraph, than its total want of all definite and intelligible meaning. The chief justice talks of "collecting together a power," and of "a force" exercised upon the parliament. What is here intended by the words power and force? Under the kindly ambiguity of these words, the chief justice seems very willing to slip upon us the idea of an armed power and a military force. But this can scarcely by any construction be reconciled to the idea of a convention. An army of delegates was an idea reserved for chief justice Eyre to introduce into the world. Well then: let us suppose that arms and violence are not intended; yet the chief justice says, that the project of a convention has for its object "the collecting together a power, which should overawe the legislative body." This word is still more ambiguous than any of the rest. What are we to understand by the phrase "to overawe?" Awe in its true acceptation has always been understood to mean deference or respect. It cannot mean any thing else here, since, as we have already seen, armed power and military force are out of the question. But in this sense what is the object of every species of convention or political association whatever? It is always intended to produce deference and respect. Thus the chief justice very properly observes, that "a convention, having for its sole object a dutiful and peaceable application to parliament," does not fail to find that application attended with "respect and credit, in proportion to its universality." Indeed there can be no doubt, that there are but two ways of operating upon men's conduct, the one, by exhibiting arguments calculated to prevail upon their own

Q





of our said lord the king assigned by letters patent of our said lord the king under his great seal of Great Britain made to them and others and any three or more of them (of whom one of them the aforesaid sir James Eyre sir Archibald Macdonald sir Beaumont Hoatham sir Francis Buller sir Nash Grose

structions of old statutes, contrary to all law and precedent, and contrary to the security and liberty of the subject.

In Ireland, some time ago, it was thought proper to bring forward a convention-bill, declaring such proceedings, as are the subjects of the forced constructions of chief baron Eyre, to amount to high treason. When the Habeas Corpus act was suspended in England, we were given to understand that this proceeding was thought sufficient for the present, and that a convention-bill, similar to the Irish, and other severe measures, were reserved to be adopted, as the case might require. This fallacious show of lenity, now turns out to be the most unprincipled tyranny. Mr. Dundas and others talked in the last session of parliament, of bringing home the Scottish principles of jurisprudence, if need were, to England, and rendering associations and conventions a subject of transportation to Botany Bay. They have since refined upon their plan, and carried the law of England, or what they are pleased to call so, into Scotland, rendering these offences, real or imaginary, a subject of the penalties of high treason. Such have been the incroachments upon the constitution, by men who have the audacity to call themselves its champions, that a man who should have pretended to foretel, from six months to six months, the measures they would think proper to pursue, would have been laughed at for the improbability and utter absurdity of his tale. Britons will at length awake, and the effects of reason and conviction upon them, will not be less formidable or less unacceptable to their oppressors, than the effects that might flow from a course of violence!

I have hitherto abstained from saying any thing respecting the personal characters of the men now under accusation. If their abilities be as rare, and their merits as high as their warmest admirers can conceive them, it would still be foreign to the question I propose to consider. If they be men, exceptionable in their character, ambiguous in their designs, and mischievous in their counsels, that also ought to be put out of the consideration. The English constitution is strong enough to disarm all the adversaries of the public peace, without its being necessary for that purpose to destroy its very essence. Twelve men are apparently concerned, but the liberties and happiness of all are at stake. If these new treasons be established, we may say, as the parliament of Henry the fourth did, speaking of the new-fangled treasons under Richard the second, that "no man can know how he

and sir Soulden Lawrence our said lord the king willed should be one) to inquire by the oath of good and lawful men of the county of Middlesex of all high treasons in compassing or imagining the death of our lord the king levying war against our lord the king in his realm or in adhering to the enemies of our

ought to behave himself, to do, speak, or say, for doubt of the pains of treason" [Blackstone, book iv, chap. 6, p. 86]. The constructions of chief justice Eyre, and the special commission, put a perpetual bar to all associations, delegations, and consultations respecting any species of grievance. Will any man venture to say, that we shall never stand in need of these expedients; or shall we consent for all time coming, to hold every possible reform and amendment at the mere will of the administration? If these principles be established, utterly subversive as they are of the principles of the English government, who will say that we shall stop here? Chief justice Eyre says to day, "all men may, nay, all men must, if they possess the faculty of thinking, reason upon every thing, that sufficiently interests them to become an object of their attention; and among the objects of attention of freemen, the principles of government, the constitution of particular governments, and, above all, the constitution of the government under which they live, will naturally engage attention and provoke speculation." But who will say how long this liberty will be tolerated, if the principles, so alarmingly opened in the charge to the grand jury, shall once be established? This is the most important crisis in the history of English liberty, that the world ever saw. If men can be convicted of high treason, upon such constructions and implications as are contained in this charge, we may look with conscious superiority upon the republican speculations of France, but we shall certainly have reason to envy the milder tyrannies of Turkey and Ispahan.

From what has been said it appears, that the whole proceedings intended in the present case, are of the nature of an *ex post facto* law. This is completely admitted by the chief justice. In summing up the different parts of his charge, he enumerates three cases, in the first of which he directs the grand jury to throw out the bills, and in that of the two last to find them true bills. One of these two relates to chief justice Eyre's new treason of "a conspiracy to subvert the monarchy," a treason which, he says, is not declared by the statute of Edward 3d. and no lawyer in this country has ever ventured to contemplate. The other, "that of overruling parliament," he states to be a new and doubtful case, and recommends, that it should be "put into a judicial course of enquiry, that it may receive a solemn adjudication whether it will or will not amount to high treason."

Thus it is fully admitted, respecting the



said lord the king in his realm giving to them aid and comfort in his realm or elsewhere and of all misprisions of such high treasons as aforesaid or of any of them within the county aforesaid (as well within liberties as without) by whomsoever and in what manner soever done committed or perpetrated when how and after what manner and of all other articles and circumstances concerning the premisses and every or any of them in any manner whatsoever and the said treason and misprisions of treasons according to the laws and customs of England for this time to hear and determine by the oath of Benjamin Winthrop esquire John Henry Schneider esquire Edward Ironside esquire Benjamin Kenton esquire Rawson Hart Boddam esquire John Aris esquire William Pardoe Allett esquire John Perry esquire Henry Peter Khuff esquire Thomas Winslow esquire Thomas Cole esquire Samuel Hawkins esquire George Ward esquire Thomas Boddam esquire Joseph Lancaster esquire Robert Wilkinson esquire George Galway Mills esquire Henry Wright esquire John Hatchet esquire Rowland Ste-

phenson now under accusation, that they could find no reason, either in the books of our law, or of any commentators of received authority, to suppose that they were incurring the guilt of treason. "The mark set upon this crime, the token by which it could be discovered, lay entirely concealed; and no human prudence, no human innocence, could save them from the destruction with which they are at present threatened" [Huic, vol. vi, ch. liv. p. 404].

It is pretty generally admitted, that several of these persons, at least, were honest and well-intentioned, though mistaken men. Punishment is awarded in human courts of justice, either according to the intention, or the mischief committed. If the intention be alone to be considered, then the men of whom I speak, however unguarded and prejudicial their conduct may be supposed to have been, must on that ground be infallibly acquitted. If, on the other hand, the mischief incurred be the sole measure of the punishment, we are bound by every thing that is sacred to proceed with reluctance and regret. Let it be supposed, that there are cases, where it shall be necessary, that a well designing man should be cut off, for the sake of the whole. The least consideration that we can pay in so deplorable a necessity, is, to warn him of his danger, and not suffer him to incur the penalty, without any previous caution, without so much as the knowledge of its existence.

I anticipate the trials to which this charge is the prelude. I know that the judge will admit the good intention and honest design of several of the persons arraigned: it will be impossible to deny it; it is notorious to the whole universe. He has already admitted, that there is no law or precedent for their

phenson esquire and John Campbell esquire good and lawful men of the county aforesaid now here sworn and charged to inquire for our said lord the king for the body of the said county, touching and concerning the premisses in the said letters patent mentioned. It is presented in manner and form as followeth (that is to say)

*Middlesex* to wit the jurors for our sovereign lord the king upon their oath present that Thomas Hardy late of Westminster in the county of Middlesex shoemaker John Horne Tooke late of Wimbledon in the county of Surrey clerk John Augustus Bonney late of the parish of Saint Giles in the Fields in the county of Middlesex aforesaid gentleman Stewart Kyd late of London esquire Jeremiah Joyce late of the parish of Saint Mary-le-bone otherwise Marybone in the county of Middlesex aforesaid gentleman Thomas Wardle late of London gentleman Thomas Holcroft late of the parish of Saint Mary-le-bone otherwise Marybone aforesaid in the county of Middlesex aforesaid gentleman John Richter late of Westminster in the said county of Middlesex

condemnation. If therefore he address them in the frank language of sincerity, he must say: "Six months ago you engaged in measures, which you believed conducive to the public good. You examined them in the sincerity of your hearts, and you admitted them with the full conviction of the understanding. You adopted them from this ruling motive, the love of your country and mankind. You had no warning that the measures in which you engaged were acts of high treason: no law told you so; no precedent recorded it; no man existing upon the face of the earth could have predicted such an interpretation. You went to your beds with a perfect and full conviction, that you had acted upon the principles of immutable justice, and that you had offended no provision or statute that was ever devised. I, the judge sitting upon the bench, you, gentlemen of the jury, every inhabitant of the island of Great Britain, had just as much reason to conceive they were incurring the penalties of the law, as the prisoners at the bar. This is the nature of the crime; these are the circumstances of the case.

"And for this, the sentence of the court [but not of the law] is, That you, and each of you, shall be taken from the bar, and conveyed to the place from whence you came, and from thence be drawn upon a hurdle to the place of execution, there to be hanged by the neck, but not until you are dead; you shall be taken down alive, your privy members shall be cut off, and your bowels shall be taken out and burnt before your faces; your heads shall be severed from your bodies, and your bodies shall then be divided into four quarters, which are to be at the king's disposal; and the Lord have mercy on your souls!"



gentleman Matthew Moore late of Westminster in the county of Middlesex aforesaid gentleman John Thelwall late of Westminster in the county of Middlesex aforesaid gentleman Richard Hodgson late of Westminster in the county of Middlesex aforesaid hatter and John Baxter late of the parish of Saint Leonard Shoreditch in the county of Middlesex aforesaid labourer being subjects of our said lord the king not having the fear of God in their hearts nor weighing the duty of their allegiance but being moved and seduced by the instigation of the devil as false traitors against our said lord the king their supreme true lawful and undoubted lord and wholly withdrawing the cordial love and true and due obedience which every true and faithful subject of our said lord the king should and of right ought to bear towards our said lord the king and contriving and with all their strength intending traitorously to break and disturb the peace and common tranquillity of this kingdom of Great Britain and to stir move and excite insurrection rebellion and war against our said lord the king within this kingdom and to subvert and alter the legislature rule and government now duly and happily established in this kingdom and to depose our said lord the king from the royal state title power and government of this kingdom and to bring and put our said lord the king to death on the first day of March in the thirty-third year of the reign of our sovereign lord the now king and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously with force and arms &c. did amongst themselves and together with divers other false traitors whose names are to the said jurors unknown conspire compass imagine and intend to stir up move and excite insurrection rebellion and war against our said lord the king within this kingdom of Great Britain and to subvert and alter the legislature rule and government now duly and happily established within this kingdom of Great Britain and to depose our said lord the king from the royal state title power and government of this kingdom and to bring and put our said lord the king to death And to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid with force and arms on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously did meet conspire consult and agree among themselves and together with divers other false traitors whose names are to the

said jurors unknown to cause and procure a convention and meeting of divers subjects of our said lord the king to be assembled and held within this kingdom with intent and in order that the persons to be assembled at such convention and meeting should and might wickedly and traitorously without and in defiance of the authority and against the will of the parliament of this kingdom subvert and alter and cause to be subverted and altered the legislature rule and government now duly and happily established in this kingdom and depose and cause to be deposed our said lord the king from the royal state title power and government thereof And further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid and in order the more readily and effectually to assemble such convention and meeting as aforesaid for the traitorous purposes aforesaid and thereby to accomplish the same purposes they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid together with divers other false traitors whose names are to the jurors aforesaid unknown on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after with force and arms at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously did compose and write and did then and there maliciously and traitorously cause to be composed and written divers books pamphlets letters instructions resolutions orders declarations addresses and writings and did then and there maliciously and traitorously cause to be published divers other books pamphlets letters instructions resolutions orders declarations addresses and writings the said books pamphlets letters instructions resolutions orders declarations addresses and writings so respectively composed written published and caused to be composed written and published purporting and containing therein among other things incitements encouragements and exhortations to move induce and persuade the subjects of our said lord the king to choose depute and send and cause to be chosen deputed and sent persons as delegates to compose and constitute such convention and meeting as aforesaid to be so holden as aforesaid for the traitorous purposes aforesaid And further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid and in order the more readily and effectually to assemble such convention and meeting as aforesaid for the traitorous purposes aforesaid and thereby to accomplish the same purposes they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle



Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after with force and arms at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid did meet consult and deliberate among themselves and together with divers other false traitors whose names are to the said jurors unknown of and concerning the calling and assembling such convention and meeting as aforesaid for the traitorous purposes aforesaid and how when and where such convention and meeting should be assembled and held and by what means the subjects of our said lord the king should and might be induced and moved to send persons as delegates to compose and constitute the same And further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid and in order the more readily and effectually to assemble such convention and meeting as aforesaid for the traitorous purposes aforesaid and thereby to accomplish the same purposes they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid together with divers other false traitors whose names are to the jurors aforesaid unknown on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after with force and arms at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously did consent and agree that the said Jeremiah Joyce John Augustus Bonney John Horne Tooke Thomas Wardle Matthew Moore John Thelwall John Baxter Richard Hodgson one John Lovett one William Sharp and one John Pearson should meet confer and co-operate among themselves and together with divers other false traitors whose names are to the said jurors unknown for and towards the calling and assembling such convention and meeting as aforesaid for the traitorous purposes aforesaid and further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid together with divers other false traitors whose names are to the jurors aforesaid unknown on the first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after with force and arms at the parish of St Giles aforesaid in the county of Middlesex aforesaid

maliciously and traitorously did cause and procure to be made and provided and did then and there maliciously and traitorously consent and agree to the making and providing of divers arms and offensive weapons to wit guns muskets pikes and axes for the purpose of arming divers subjects of our said lord the king in order and to the intent that the same subjects should and might unlawfully forcibly and traitorously oppose and withstand our said lord the king in the due and lawful exercise of his royal power and authority in the execution of the laws and statutes of this realm and should and might unlawfully forcibly and traitorously subvert and alter and aid and assist in subverting and altering without and in defiance of the authority and against the will of the parliament of this kingdom the legislature rule and government now duly and happily established in this kingdom and depose and aid and assist in deposing our said lord the king from the royal state title power and government of this kingdom and further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid with force and arms on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid maliciously and traitorously did meet conspire consult and agree among themselves and with divers other false traitors whose names are to the said jurors unknown to raise levy and make insurrection rebellion and war within this kingdom of Great Britain against our said lord the king and further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did meet conspire consult and agree amongst themselves and together with divers other false traitors whose names are to the said jurors unknown unlawfully wickedly and traitorously to subvert and alter and cause to be subverted and altered the legislature rule and government now duly and happily established in this kingdom and to depose and cause to be deposed our said lord the king from the royal state title



power and government of this kingdom and further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid and in order the more readily and effectually to bring about such subversion alteration and deposition as last aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid together with divers other false traitors whose names are to the Jurors aforesaid unknown on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the parish of St. Giles aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did prepare and compose and did then and there maliciously and traitorously cause and procure to be prepared and composed divers books pamphlets letters declarations instructions resolutions orders addresses and writings and did then and there maliciously and traitorously publish and disperse and did then and there maliciously and traitorously cause and procure to be published and dispersed divers other books pamphlets letters declarations instructions resolutions orders addresses and writings the said several books pamphlets letters declarations instructions resolutions orders addresses and writings so respectively prepared composed published dispersed and caused to be prepared composed published and dispersed as last aforesaid purporting and containing therein (amongst other things) incitements encouragements and exhortations to move induce and persuade the subjects of our said lord the king to aid and assist in carrying into effect such traitorous subversion alteration and deposition as last aforesaid and also containing therein amongst other things information instructions and directions to the subjects of our said lord the king how when and upon what occasions the traitorous purposes last aforesaid should and might be carried into effect and further to fulfil perfect and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid they the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter as such false traitors as aforesaid together with divers other false traitors whose names are to the Jurors aforesaid unknown on the said first day of March in the thirty-third year aforesaid and on divers other days and times as well before as after at the parish of Saint Giles aforesaid in the county of Middlesex aforesaid with force and arms maliciously and traitorously did procure and provide and did then and there maliciously and traitorously cause and procure to be provided

and did then and there maliciously and traitorously consent and agree to the procuring and providing arms and offensive weapons (to wit) guns muskets pikes and axes therewith to levy and wage war insurrection and rebellion against our said lord the king within this kingdom against the duty of the allegiance of them the said Thomas Hardy John Horne Tooke John Augustus Bonney Stewart Kyd Jeremiah Joyce Thomas Wardle Thomas Holcroft John Richter Matthew Moore John Thelwall Richard Hodgson and John Baxter against the peace of our said lord the now king his crown and dignity and against the form of the statute in that case made and provided.

Mr. Attorney General stated to the Court, that he had been informed by the counsel for the prisoners, it was their intention the prisoners should be tried separately. It was therefore his intention to proceed first on the trial of Thomas Hardy.

At the request of the prisoners' counsel, the Court adjourned to Tuesday, October the 28th.

*Sessions House in the Old Bailey, Tuesday, October 28th.*

Present.—Lord chief justice Eyre; lord chief baron Macdonald; Mr. baron Hotham; Mr. justice Buller; Mr. justice Grose; and others his majesty's justices, &c.

*Counsel for the Crown.*—Mr. Attorney General [Sir John Scott, afterwards lord Eldon],—Mr. Solicitor General [Sir John Mitford, afterwards lord Redesdale],—Mr. Serjeant Adair,—Mr. Bearcroft,—Mr. Bower,—Mr. Law [afterwards lord Ellenborough],—Mr. Garrow, [afterwards a baron of the court of Exchequer],—Mr. Wood [afterwards a baron of the court of Exchequer].

*Solicitor.*—Joseph White, esq. solicitor for the affairs of his majesty's treasury.

*Counsel for the Prisoner.*—The hon. Thomas Erskine, [afterwards lord Erskine],—Mr. Gibbs [afterwards lord chief justice of the court of Common Pleas].

*Assistant Counsel.*—Mr. Dampier, [afterwards a judge of the court of King's bench],—Mr. Felix Vaughan.—Mr. Gurney.

*Solicitors.*—Messrs. George and Romaine William Clarkson, of Essex street.

The court being opened and Thomas Hardy set to the bar, the jurors returned by the sheriff were called over.

Major Rhode, esq. challenged by the prisoner. Thomas Martin, oilman, not a freeholder of the county of Middlesex.

George Jefferys, jeweller, not a freeholder.

Hugh French, esq. challenged by the prisoner. Robert Mellish, ship-builder, challenged by the prisoner.

William Harwood, esq. challenged by the crown.



James Hagarth, esq. challenged by the prisoner.  
 Robert Lewis, esq. excused on account of illness.  
 John Walker, esq. not a freeholder.  
 George Wade, stock-broker, challenged by the crown.  
 Thomas Buck, esq. sworn.  
 Thomas Ayliffe, esq. challenged by the prisoner.  
 Thomas Wood, esq. sworn.  
 Mark Hudson, esq. challenged by the prisoner.  
 John Mandell, gent. challenged by the prisoner.  
 Henry Bullock, brewer, challenged by the crown.  
 John Powsey, carpenter and surveyor, challenged by the prisoner.  
 George Capes, esq. challenged by the prisoner.  
 Thomas Rhodes, cow-keeper, challenged by the prisoner.  
 Edward Helme, esq. challenged by the prisoner.  
 Jeffery Holmes, esq. challenged by the crown.  
 William Fraser, esq. sworn.  
 Apsley Peliat, ironmonger, not a freeholder.  
 Hugh Reynolds, esq. challenged by the prisoner.  
 Thomas Harrison, cow-keeper, challenged by the prisoner.  
 Daniel Gosset, esq. not a freeholder.  
 Richard Meaux, esq. not a freeholder.  
 Dickier Saunders, esq. one of the people called quakers.  
 Calvert Clapham, gent. not a freeholder.  
 John Leader, gent. challenged by the prisoner.  
 John Guest, esq. excused on account of illness.  
 Charles Fourdrinier, stationer, not a freeholder.  
 Adam Steinmetz, biscuit-baker.  
 Mr. Attorney General.—Are you a natural born subject?  
 Mr. Steinmetz.—Yes.—Sworn.  
 Alexander Baxter, esq. not a freeholder.  
 Richard Child, distiller, not a freeholder.  
 Jeremiah Blakeman, timber merchant, challenged by the prisoner.  
 Robert Kilby Cox, esq. challenged by the prisoner.  
 Richard Hunt, esq. not a freeholder.  
 James Payne, esq. challenged by the crown.  
 Newell Connop, distiller, sworn.  
 John Mercer, mealman, sworn.  
 John Rixon, cooper, challenged by the crown.  
 Thomas Sayer, esq. sworn.  
 Richard Carter, esq. sworn.  
 Edward Hale, gent. challenged by the prisoner.  
 George Fillingham, esq. challenged by the prisoner.  
 Samuel Rudge, esq. not a freeholder.  
 William Perry, esq. challenged by the prisoner.  
 Richard Gough, esq. challenged by the prisoner.  
 Joshua Brookes, dealer in birds, not a freeholder.  
 Thomas Lawrence, esq. not a freeholder.

Thomas Skipp Dyott Bucknell, esq. challenged by the prisoner.  
 John Blackburn, esq. challenged by the prisoner.  
 Samuel Mills, weaver.  
 Mr. Mills — My father left in his will all his estate to my brother and me, and appointed trustees, and we are not by the will, to be of age till we are thirty-five.  
 Joseph Bird, esq. not a freeholder of Middlesex.  
 Thomas Powell, esq. challenged by the prisoner.  
 William Emerson, esq. not a freeholder.  
 James Cook, esq. not a freeholder.  
 Nathaniel Stonard, brewer, sworn.  
 Joseph Mawley, gent. not a freeholder.  
 Thomas Allen, brewer, challenged by the prisoner.  
 John Baker, esq. challenged by the prisoner.  
 William Row, esq. not a freeholder.  
 James Smith, esq. challenged by the prisoner.  
 Bryan Marshall, gent. challenged by the prisoner.  
 Joseph Nicoll, gentleman farmer, sworn.  
 Thomas Bird, distiller, not a freeholder.  
 Robert Vincent, esq. not a freeholder.  
 David Roberts, esq. challenged by the prisoner.  
 George Brooks, esq. not a freeholder.  
 William Arnold, esq. not a freeholder.  
 Thomas Nixon, esq. not a freeholder.  
 Thomas Smith, esq. challenged by the prisoner.  
 John Charrington, esq. sworn.  
 George Rigby, esq. not a freeholder.  
 Thomas Allen, esq. challenged by the prisoner.  
 Andrew Burt, esq. challenged by the crown.  
 Charles Smith, distiller, challenged by the prisoner.  
 Archibald Paxton, wine merchant, challenged by the prisoner.  
 Ralph Keddy, esq. not a freeholder.  
 John Harsley, esq. not a freeholder.  
 William Nicoll, farmer, challenged by the prisoner.  
 Edward Franklin, farmer excused on account of illness.  
 Michael Henley, coal merchant, challenged by the prisoner.  
 John Thompson, brewer, challenged by the prisoner.  
 Joseph Ainslie, esq. sworn.

## THE JURY.

Thomas Buck,	Thomas Sayer,
Thomas Wood,	Richard Carter,
William Fraser,	Nathaniel Stonard,
Adam Steinmetz,	Joseph Nichol,
Newell Connop,	John Charrington,
John Mercer,	Joseph Ainslie.

Mr. Thomas Shelton (clerk of the arraigns).  
 Thomas Hardy, hold up your hand.

Gentlemen of the Jury, the prisoner, Thomas Hardy, stands indicted, together with John Horne Tooke, &c.—[Here the Clerk of

Arraigns read the Indictment].—Upon this indictment he hath been arraigned, and upon his arraignment hath pleaded not guilty, and for his trial hath put himself upon God and the country, which country you are. Your charge is, to inquire whether he be guilty of the high treason whereof he stands indicted, or not guilty. If you find him guilty, you are to inquire what goods or chattels, lands or tenements, he had at the time of the high treason committed, or at any time since. If you find him not guilty, you are to inquire whether he fled for it, if you find that he did fly for it, you shall inquire of his goods and chattels as if you had found him guilty. If you find him not guilty, and that he did not fly for it, say so, and no more, and hear your evidence.

The Indictment was opened by Mr. Wood.

Mr. Attorney-General (sir John Scott).—May it please your Lordship and Gentlemen of the Jury;—In the course of stating what I have to offer to your most serious attention in this great and weighty cause, affecting, as it certainly does, the dearest interests of the community, affecting, as you will remember throughout this business, every interest which can be valuable to the prisoner at the bar, I shall have frequent occasion to call that anxious attention to the different parts of the indictment which has just been opened to you. I forbear to do so at this moment, because I think that attention will be more usefully, both with respect to the public, and to the prisoner, given and required in another part of what I am to address to you.

Gentlemen, the prisoner, who is before you, stands charged (to state the indictment generally) with the offence of compassing his majesty's death; he was committed upon that charge by his majesty's privy council: I will explain to you presently why I state this and the following facts. In consequence of the apprehension of this prisoner, of several others charged by this indictment, and of others whose names do not occur in this indictment, proceedings of some notoriety were had in parliament, and an act passed, empowering his majesty to detain such persons as he suspected were conspiring against his government. That act has asserted, that a traitorous and detestable conspiracy had been formed for subverting the existing laws and government of the country, and for introducing that system of anarchy and confusion, which had so fatally prevailed in France; the act, upon the spur of the emergency, which it contemplated, authorized the detention without bail, mainprize, or discharge, of the persons then in prison for high treason, or treasonable practices, or who should afterwards be committed, for high treason or treasonable practices, by warrants from the privy council or secretary of state, until the first of February, 1795.

Gentlemen, this measure, which did not suspend the operation of the Habeas Corpus VOL. XXIV.

act, that great palladium of English liberty, but with reference to particular persons, under particular commitments, for particular offences, is a measure never adopted in this country by parliament but in cases, in which it is understood, after giving all possible attention to secure the right of the subject from being broken in upon, to be of the last possible necessity, and which has been repeatedly put in force, in the best of times, in such cases, where the wisdom of parliament apprehended that it was matter of their duty to provide that the nation should part with its liberty for a while, that it might not lose it for ever.

Gentlemen, appearing before you this day in discharge of that duty, which I have been commanded to execute and the execution of which appears to me to be absolutely necessary, you will collect from the fact that I do appear here this day, that, according to the true constitutional meaning of such an act of parliament, it is not that the trial of such persons shall be delayed during the period of the suspension of the act, but that the act shall, with reference to the time of trial, be allowed, in the right execution of it, an operation only to that extent in which the due consideration of the public safety, tempered with a due attention to the liberty of the individual subject, may require.

Gentlemen, the proceedings of the legislature having been such as I have stated to you, his majesty, constitutionally advised in the exercise of his duty, as the great conservator of the public peace, directed a commission to issue to inquire whether any such treasons, as the presumption of such a traitorous conspiracy must necessarily suppose to have existed, had been committed by any persons, and by whom. In the execution of the duties of that commission, a grand jury of this country, upon their oaths, have declared that there is ground of charge against the person at the bar, and against others, sufficient to call upon them, in a trial to be had before you, their country, to answer to an accusation of high treason, in compassing his majesty's death.

Gentlemen, I have stated these circumstances, that I may convey to you, in as strong terms as I can express it, this observation, that, as the proceedings of parliament ought to have had (and I am persuaded, from the deliberation which they gave the subject, that they had) no influence upon the judicial mind of the grand inquest, neither ought these proceedings to affect your inquiries, or to induce you to any determination, which you are to make upon the issue, which you are now sworn to try.

Gentlemen, there is no one circumstance of any proceedings before parliament, with reference to which you ought to suffer yourselves to be influenced in the trial of this issue. It is obvious that such proceedings, as were had in parliament, providing for great emergencies, may be required and autho-

R



rized by the genuine spirit of the constitution, even in cases in which a grand jury might not, upon any thing that could be offered to their consideration, be justified in finding a bill: it is much more obvious, that, in a proceeding before you, a consideration of the wisdom and propriety of the acts of the legislature is not called for.

You therefore, gentlemen of the jury, will consider the prisoner as standing before you in full possession of an absolute right to the presumption of innocence, notwithstanding he is charged with guilt by this indictment, as you will hear, except so far as that presumption is met by the single simple fact, that he has been accused by a grand jury of his country.

Gentlemen, before I conclude these general observations, you will permit me to say, on the other hand, that, if there has been any thing that has fallen under your observation, by act or publication—any attempt to make any impression upon the minds of those who are this day impanelled to try this great cause, to disparage that advice, which, under the most responsible sanction, may be given you in matter of law, to work in your minds any prejudice either against the prisoner, or on the prisoner's behalf; on the one hand I am perfectly sure that your integrity will be security to the public, that you will not permit any attempt of that kind to have any operation; on the other hand, gentlemen of the jury, I am equally sure that I need not ask from an English jury, that they would permit no such attempt to prejudice them against the prisoner at the bar,—no, not even an injudicious or ill executed attempt, to influence them in his favour.

Gentlemen, in order to understand the law of treason, and the indictment, I shall take the liberty first to state to you the character which I apprehend the king, for the protection of whose person and government the statute in question was made, has in the state and constitution of this country.

Gentlemen, the power of the state, by which I mean the power of making laws, and enforcing the execution of them when made, is vested in the king; enacting laws, in the one case, that is, in his legislative character, by and with the advice and consent of the Lords spiritual and temporal, and of the Commons in parliament assembled, assembled according to the law and constitutional custom of England; in the other case, executing the laws, when made, in subservience to the laws so made, and with the advice, which the law and the constitution have assigned to him in almost every instance, in which they have called upon him to act for the benefit of the subject. The king's authority, under the check of constitutional and legal provisions and limitations, convenes and regulates the duration and existence of parliament, convening those whom, according to the law and custom of the country, he is bound to convene. The king, in his parliament, sitting in his royal political

capacity, and the Lords and Commons there assembled, form the great body politic of the kingdom, by which is exercised sovereign authority in legislation. Gentlemen, whilst the present law, the present constitution, and present government of Great Britain, exist, no law can be made but by that authority; no legislative power can be created against the will, and in defiance of that authority. Whether in any, or in what circumstances, an attempt to create such a power is a treason forbidden by the statute of the 25th of Edward 3rd, I propose to examine presently.

Gentlemen, as in the king the power of legislation is vested, as well as the executive power of the state, to be exercised with consent and advice, to be exercised according to those laws, which are the birthright and inheritance of the subject, having upon him the care and protection of the community; to him, in return, the allegiance of every individual is, according to the law of England, due; that allegiance, by which the subject is bound, in the language of the statutes of this country, to defend him "against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, his crown, or his dignity."

Gentlemen, to ascertain to whom this care and protection is committed—to ascertain to whom this allegiance is due, the breach of which, according to the venerable lord Hale, constitutes high treason, is necessary to the peace of the community—to ascertain and to define accurately what constitutes a breach of that allegiance, is essentially and absolutely necessary to the security of all that our ancestors have claimed, demanded, and insisted upon, as the ancient, undoubted rights and liberties of our country.

Gentlemen, the former of these objects is secured by the law and constitutional custom of England; that law which alike secures to you every right, whether it be a right of person or of property. It has made the crown, which his majesty wears, hereditary (and I beg your attention to that), subject to limitation by parliament. The latter object has been most anxiously secured by the statute referred to in the indictment, which brings forward the charge, the truth of which you are now to try.

Gentlemen, the king having this hereditary crown, the law and constitution have also ascertained his duties—those duties, which it is incumbent upon him to execute, for the benefit of the subject, in the execution of which duties they have aided him with counsel, and in consideration of which duties they have clothed him with dignity, and vested him with high prerogatives. With respect to the duties of the king, they attach upon him the instant he becomes such; from the moment that his title accrues, in the same instant the duty of allegiance (the breach of which is high treason) attaches to it; he recognizes these as his duties in that oath, to which,



throughout this business, I must again call your attention, in that oath which he is bound to take upon him, at his coronation, by which he promises and swears "to govern the people of this country," mark the words, gentlemen, "*according to the statutes in parliament agreed upon, and the laws and customs of the same* ; that to his power he will cause law in justice and mercy to be administered; that he will maintain the laws of God and the true profession of religion established by law."

Gentlemen, this oath, stated by that great and venerable constitutional judge, Mr. Justice Foster, to be a solemn and a public recognition, not only of the duties of the king, but of the fundamental rights of the people, imposeth upon him (and throughout this case it cannot be too strongly recollected that it imposeth upon him) the most sacred obligation to govern according to the laws and statutes in parliament agreed upon, according to the laws and customs of the same, and no other.

Gentlemen, addressing this Court, which is a court of law, in which you, the jury, are sworn to make a true deliverance according to the law of England, can I impress it too strongly that it cannot be supposed by possibility—not by possibility—that the king can, consistently with his oath, and with the antecedent duty recognized in the explicit engagement, the terms of which you have heard, either act, or permit himself to act, as king according to any rules of government, formed by any bodies of men, assuming any character, functions, or situations, those rules of government being meant to operate as laws, *the statutes agreed upon in parliament, and the laws and customs of the same, only excepted?*

Gentlemen, it seems to me to follow, as a necessary conclusion from the reasoning to be addressed to a court of law, not only that those, who conspire to remove the king out of the government altogether, but that those who conspire to remove him, unless he will govern the people according to laws, which are not statutes in parliament agreed upon, and the laws and customs of the same, or as the head of a government framed and modified by any authority not derived from that parliament, do conspire to depose him from *that royal state, title, power, and government, which the indictment mentions*, and to subvert and alter the rule and government now established in these kingdoms. He ought not so to govern—I say he cannot so govern—he is bound to resist such a project at the hazard of all its consequences; he must resist the attempt; resistance necessarily produces deposition, it endangers his life.

Gentlemen, to that king, upon whom these duties attach, the law and constitution, for the better execution of them, have assigned various counsellors, and responsible advisers: they have clothed him, under various constitutional checks and restrictions, with various attributes and prerogatives, as necessary for

the support and maintenance of the civil liberties of the people: they ascribe to him sovereignty, imperial dignity, and perfection: and because the rule and government, as established in this kingdom, cannot exist *for a moment* without a person filling that office, and able to execute all the duties from time to time, which I have now stated, they ascribe to him also that he never ceases to exist. In foreign affairs, the delegate and representative of his people, he makes war and peace, leagues and treaties: In domestic concerns, he has prerogatives, as a constituent part of the supreme legislature; the prerogative of raising fleets and armies: he is the fountain of justice, bound to administer it to his people, because it is due to them; the great conservator of public peace, bound to maintain and vindicate it; every where present, that these duties may no where fail of being discharged; the fountain of honour, office, and privilege; the arbiter of domestic commerce, the head of the national church.

Gentlemen, I hope I shall not be thought to mispend your time in stating thus much, because it appears to me that the fact, that such is the character, that such are the duties, that such are the attributes and prerogatives of the king in this country (all existing for the protection, security, and happiness of the people in an established form of government), accounts for the just anxiety, bordering upon jealousy, with which the law watches over his person—accounts for the fact that, in every indictment, the compassing or imagining his destruction, or deposition, seems to be considered as necessarily co-existing with an intention to subvert the rule and government established in the country: it is a purpose to destroy and to depose *him*, in whom the supreme power, rule, and government, under constitutional checks and limitations, is vested, and by whom, with consent and advice in some cases, and with advice in all cases, the exercise of this constitutional power is to be carried on.

Gentlemen, this language, the tenor and charge of every indictment, is most clearly expressed by lord Hale, when he says that high treason is an offence more immediately against the *person and government* of the king: I cannot state it more strongly to you, or from an authority, the authenticity of which will be less questioned by those who are to defend the prisoner at the bar, than when I state to you the language of one of the counsel for lord George Gordon upon the last trial for high treason: indeed it is no more than what follows the law of England as delivered by all those great lawyers, whose authority, I am persuaded, will not be attempted to be shaken in the course of this trial, when it states this principle thus:—*"To compass or imagine the death of the king, such imagination or purpose of the mind, visible only to its great Author, being manifested by some open act, an institution*



obviously directed not only to the security of his natural person, but to the stability of the government, the life of the prince being so interwoven with the constitution of the state that an attempt to destroy the one is justly held to be a rebellious conspiracy against the other."<sup>o</sup>

Gentlemen, it will be my duty to state to you presently what is in law an attempt against the life of the king. It seems, therefore, that when the ancient law of England,—and I would beg your attention to what I am now stating to you,—that when the ancient law of England was changed, which, even in the case of a subject, held the intent to kill homicide, as well as, in the case of the king, the intent to kill or depose, without the fact, where a measure was taken to effectuate the intent, treason, with a difference however as to the nature of the acts deemed sufficient, in the one case, or in the other, to manifest the one or the other intent, that to use the words of a great and venerable authority, I mean Mr. Justice Foster, "it was with great propriety that the statute of treason retained the rigour of the law in its full extent in the case of the king. In the case of him," says he, "whose life must not be endangered, because it cannot be taken away by treasonable practices, without involving a nation in blood and confusion: levelled at him, the stroke is levelled at the public tranquillity."<sup>t</sup>

Gentlemen, that it may be fully understood what it is that I have to contend for in the course of this trial, I put you in mind again that I have before stated, that, as it is absolutely necessary to the security of individuals, not less necessary to the security of individuals, than it is necessary to the security of the nation which they compose, that the person and government of the king should be thus defended: on the other hand, for the security

should tarry without going to judgment of the treason, till the cause be showed and declared before the king and his parliament;"—in the expressive language, which your ancestors have used, when the provisions of the statute of Edward were first introduced into the code of law under which we live, and of those statutes, by which treasons were brought back to the provisions of that statute, the experience of your ancestors, thus handed down to you, has demonstrated this necessity. I admit too (and my treating the subject thus in the outset may ultimately save your time), that before the statute was made, upon which the indictment proceeds, the security of the subject was not sufficiently provided for. I admit that security is not sufficiently provided for now, if construction can be allowed to give an exposition to the statute, which the legislature did not intend it should receive.

Gentlemen, upon each of these heads it was necessary for me to trouble you with some, and but with a few observations.

That the law of treason should be determinate and certain, though clearly necessary for the security of the subject, is not more necessary for their security, than that there should be a law of treason, and that this law should be faithfully, duly, and firmly executed.

Gentlemen, every state must have some form or regimen of government; in other words, it must determine by whom, and under what modifications, the sovereign power is to be exercised in the country: for no government can exist, unless this power is placed somewhere: and the attempt to subvert that power is, in the nature of the thing, an attempt to subvert the established government. It is of necessity that an attempt of this sort should be guarded against, by severer

legislature in Edward's time proposed, when they enacted the sacred statute upon which this indictment is founded; that statute was made for the more precise definition of this crime, which, by the common law, had not been sufficiently extended, and "the plain unextended letter of it," you will mark the words, "the plain unextended letter of it was thought to be a sufficient protection to the person and honour of the sovereign;" but not only to the person and honour of the sovereign, but "*an adequate security to the laws committed to his execution.*"

Gentlemen, in addressing a jury in a court of law, sworn to make deliverance according to that law which constitutes the court in which they sit, there are two propositions, which appear to me to be alike clear:—the first is, that I ought not, that I cannot dare to call upon you to say, that there has been committed under this statute any offence, if the facts of the case to be laid before you, by plain, manifest, authorized interpretation of the statute, do not constitute an offence under it;—if the statute should seem to any man, or to you, not to be a sufficient and adequate security to the person and honour of the sovereign, and the due execution of the laws, it is nevertheless all the security which the law has authorized you to give them, and God forbid that you should think of giving more. On the other hand, you are bound by your oaths, if this law has been violated in fact, if the fact of violation is proved by evidence, convincing in its nature, and such in its form as the law requires (for the law in this case requires not only convincing, but formal evidence), then you are bound to give to the person and honour of the sovereign, and to the laws of your country, that protection, which a verdict, asserting in substance that the statute has been violated, would give, and which the statute intended should be given.

Gentlemen, men of honour and of conscience, acting under the sanction of the oath which they have taken, must come to the same conclusion, judging of the same facts, by the same law, whatever their principles of government may be, unless they differ upon the effect of the facts laid before them. In the trial of a person, whose name I shall have abundant reason to mention to you in the course of this proceeding, I mean the author of the Rights of Man, charged with a libel against the monarchy of the country, it was judiciously, truly, justly, and strongly admitted in effect, that, if the jury had been composed (if there are twelve such men in this country) of republicans, wishing to overturn the government of the country, yet administering the law of England, in a court of English law, if they were convinced that the crime had, according to that law, been committed, no man would have the audacity to say that they could be capable of that crime against the public, to think for a

moment of not coming to the conclusion, which the facts called for, according to the law by which they were sworn to decide upon the matter before them.\*

Gentlemen, the statute upon which this indictment proceeds, is to the following effect:—it states (and it states most truly), "that divers opinions had been had before this time," that is, the 25th Edward 3rd, "in what case treason should be said, and in what not: the king, at the request of the Lords and of the Commons, hath made a declaration in the manner as hereafter followeth, that is to say, when a man doth compass or imagine the death of our lord the king, or of our lady his queen, or of their eldest son and heir; or if a man do violate the king's companion, or the king's eldest daughter, unmarried, or the wife of the king's eldest son and heir; or if a man do levy war against our lord the king in his realm, or be adherent to the king's enemies in his realm, giving to them aid and comfort in the realm or elsewhere, and thereof be provably attainted"—by which words I understand be attainted by evidence, that clearly and forcibly satisfies the minds and consciences of those who are to try the fact—"attainted of open deed by people of their condition,"—then there is this, to which you will be bound to give your attention for the sake of the prisoner, as well as for the sake of the public, the interests of both being blended in this great cause;—"and because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is accorded that, if any other case, supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry without any going to judgment of the treason till the cause be showed and declared before the king and his parliament, whether it ought to be judged treason, or other felony."

Gentlemen, I desire to point out here, in the most marked way in which I can state it, the anxiety, with which the parliament wished to preserve to itself the judgments of treasons, not being the specified treasons in the statute, but being like treasons, those which, by a parity of reasoning might be said to be treason. They would not trust the subjects of the country in the hand of any court of justice upon that point. I mark the circumstance, because it appears to me to give a degree of authority to the law of England upon the subject of treason, and to the constructions, which have been made upon it, and to the distinctions, which have been made between like treasons, and overt acts of the same treason, that perhaps does not belong to constructions and distinctions adopted in the course of judicial proceedings upon any other law in the statute-book.

Gentlemen, having read the statute to you,

\* See Mr. Erskine's defence of Paine, Vol. 22, p. 413 of this Collection.



obviously directed not only to the security of his natural person, but to the stability of the government, the life of the prince being so interwoven with the constitution of the state that an attempt to destroy the one is justly held to be a rebellious conspiracy against the other.”\*

Gentlemen, it will be my duty to state to you presently what is in law an attempt against the life of the king. It seems, therefore, that when the ancient law of England,—and I would beg your attention to what I am now stating to you,—that when the ancient law of England was changed, which, even in the case of a subject, held the intent to kill homicide, as well as, in the case of the king, the intent to kill or depose, without the fact, where a measure was taken to effectuate the intent, treason, with a difference however as to the nature of the acts deemed sufficient, in the one case, or in the other, to manifest the one or the other intent, that to use the words of a great and venerable authority, I mean Mr. Justice Foster, “it was with great propriety that the statute of treason retained the rigour of the law in its full extent in the case of the king. In the case of him,” says he, “whose life must not be endangered, because it cannot be taken away by treasonable practices, without involving a nation in blood and confusion: levelled at him, the stroke is levelled at the public tranquillity.”†

Gentlemen, that it may be fully understood what it is that I have to contend for in the course of this trial, I put you in mind again that I have before stated, that, as it is absolutely necessary to the security of individuals, not less necessary to the security of individuals, than it is necessary to the security of the nation which they compose, that the person and government of the king should be thus defended; on the other hand, for the security of the subject, it is equally necessary that the crime of high treason should not be indeterminate, that it should not be unascertained, or undefined, either in the law itself, or in the construction to be made of that law.

Gentlemen, this necessity is not to be collected merely in this country from reasoning, though it may obviously enough be collected from reasoning; the experience of your ancestors has informed you, I admit it, and I beg to press it upon your attention, as much as any man in this court can press it upon your attention, the experience of your ancestors has informed you, in the just and bitter complaints which are to be found in their annals, of the periods, in which no man knew how he ought to behave himself, to do, speak, or say, for doubt of pains of treason,—in the anxiety with which the statute of Edward 3rd reserved the judgment of all treasons not there expressly specified—“that the justices

should tarry without going to judgment of the treason, till the cause be showed and declared before the king and his parliament;”—in the expressive language, which your ancestors have used, when the provisions of the statute of Edward were first introduced into the code of law under which we live, and of those statutes, by which treasons were brought back to the provisions of that statute, the experience of your ancestors, thus handed down to you, has demonstrated this necessity. I admit too (and my treating the subject thus in the outset may ultimately save your time), that before the statute was made, upon which the indictment proceeds, the security of the subject was not sufficiently provided for. I admit that security is not sufficiently provided for now, if construction can be allowed to give an exposition to the statute, which the legislature did not intend it should receive.

Gentlemen, upon each of these heads it was necessary for me to trouble you with some, and but with a few observations.

That the law of treason should be determinate and certain, though clearly necessary for the security of the subject, is not more necessary for their security, than that there should be a law of treason, and that this law should be faithfully, duly, and firmly executed.

Gentlemen, every state must have some form or regimen of government; in other words, it must determine by whom, and under what modifications, the sovereign power is to be exercised in the country; for no government can exist, unless this power is placed somewhere: and the attempt to subvert that power is, in the nature of the thing, an attempt to subvert the established government. It is of necessity that an attempt of this sort should be guarded against, by severer penalties than offences, which being breaches of particular laws, do not endanger the very existence of the state itself, which do not involve in the destruction of the state, the destruction of all laws, but which leave the law, though violated in particular cases, sufficient, in general cases, for the protection of the personal security, the liberty, and happiness of the subject.

Gentlemen, this is also the reasoning of that great judge, whose name I before mentioned to you, my lord Hale:—“The greatness of the offence,” he says, “and the severity of the punishment, is upon these reasons:—First, because the safety, peace, and tranquillity of the kingdom is highly concerned in the safety and preservation of the person, dignity, and government of the king, and therefore the laws of the kingdom have given all possible security to the king’s person and government, and under the severest penalties.”\*

Gentlemen, to describe this great offence with precision and accuracy, was what the

\* See Vol. 21, p. 589 of this Collection.

† See Foster’s Crown Law, discourse 1, chap. 1; sec. 2, p. 194, 195, ed. of 1792.

\* Hale’s Pleas of the Crown, part 1, chap. 10.

legislature in Edward's time proposed, when they enacted the sacred statute upon which this indictment is founded; that statute was made for the more precise definition of this crime, which, by the common law, had not been sufficiently extended, and "the plain unextended letter of it," you will mark the words, "the plain unextended letter of it was thought to be a sufficient protection to the person and honour of the sovereign;" but not only to the person and honour of the sovereign, but "an adequate security to the laws committed to his execution."

Gentlemen, in addressing a jury in a court of law, sworn to make deliverance according to that law which constitutes the court in which they sit, there are two propositions, which appear to me to be alike clear:—the first is, that I ought not, that I cannot dare to call upon you to say, that there has been committed under this statute any offence, if the facts of the case to be laid before you, by plain, manifest, authorized interpretation of the statute, do not constitute an offence under it;—if the statute should seem to any man, or to you, not to be a sufficient and adequate security to the person and honour of the sovereign, and the due execution of the laws, it is nevertheless all the security which the law has authorized you to give them, and God forbid that you should think of giving more. On the other hand, you are bound by your oaths, if this law has been violated in fact, if the fact of violation is proved by evidence, convincing in its nature, and such in its form as the law requires (for the law in this case requires not only convincing, but *legal* evidence), then you are bound to give to the person and honour of the sovereign, and to the laws of your country, that protection, which a verdict, asserting in substance that the statute has been violated, would give, and which the statute intended should be given.

Gentlemen, men of honour and of conscience, acting under the sanction of the oath which they have taken, must come to the same conclusion, judging of the same facts, by the same law, whatever their principles of government may be, unless they differ upon the effect of the facts laid before them. In the trial of a person, whose name I shall have abundant reason to mention to you in the course of this proceeding, I mean the author of the *Rights of Man*, charged with a libel against the monarchy of the country, it was judiciously, truly, justly, and strongly admitted in effect, that, if the jury had been composed (if there are twelve such men in this country) of republicans, wishing to overturn the government of the country, yet administering the law of England, in a court of English law, if they were convinced that the crime had, according to that law, been committed, no man would have the audacity to say that they could be capable of that crime against the public, to think for a

moment of not coming to the conclusion, which the facts called for, according to the law by which they were sworn to decide upon the matter before them.\*

Gentlemen, the statute upon which this indictment proceeds, is to the following effect:—it states (and it states most truly), "that divers opinions had been had before this time," that is, the 25th Edward 3rd, "in what case treason should be said, and in what not: the king, at the request of the Lords and of the Commons, hath made a declaration in the manner as hereafter followeth, that is to say, when a man doth compass or imagine the death of our lord the king, or of our lady his queen, or of their eldest son and heir; or if a man do violate the king's companion, or the king's eldest daughter, unmarried, or the wife of the king's eldest son and heir; or if a man do levy war against our lord the king in his realm, or be adherent to the king's enemies in his realm, giving to them aid and comfort in the realm or elsewhere, and thereof be provably attainted"—by which words I understand be attainted by evidence, that clearly and forcibly satisfies the minds and consciences of those who are to try the fact—"attainted of open deed by people of their condition,"—then there is this, to which you will be bound to give your attention for the sake of the prisoner, as well as for the sake of the public, the interests of both being blended in this great cause;—"and because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is accorded that, if any other case, supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry without any going to judgment of the treason till the cause be showed and declared before the king and his parliament, whether it ought to be judged treason, or other felony."

Gentlemen, I desire to point out here, in the most marked way in which I can state it, the anxiety, with which the parliament wished to preserve to itself the judgments of treasons, not being the specified treasons in the statute, but being like treasons, those which, by a parity of reasoning might be said to be treason. They would not trust the subjects of the country in the hand of any court of justice upon that point. I mark the circumstance, because it appears to me to give a degree of authority to the law of England upon the subject of treason, and to the constructions, which have been made upon it, and to the distinctions, which have been made between like treasons, and overt acts of the same treason, that perhaps does not belong to constructions and distinctions adopted in the course of judicial proceedings upon any other law in the statute-book.

Gentlemen, having read the statute to you,

\* See Mr. Erskine's defence of Paine, Vol. 22, p. 413 of this Collection.



it is not unimportant, as it seems to me, to observe that lord Hale and Mr. Justice Foster, who have stated the judicial and other expositions of this statute, have stated them, and have expounded the statute, under the weighty caution, which they most powerfully express: under the solemn protests, which they most strongly state, against extending this statute by a parity of reason. This circumstance alone appears to me to give infinite authenticity to the expositions, which they state of it, as sound, and as being such as, according to the interpretation, which the legislature in Edward 3rd's time meant, should be put upon this statute.

Gentlemen, I think it may also save your time, and that of the Court, if I trouble you here by reading, before I state to you the expositions of the statute which lord Hale has given us, deducing them from judgments which had been actually made in the history of the country, the language which he holds, as describing the obligations, which courts of justice, and men looking at this statute for the purpose of executing it, are under, to construe it according to the real specified meaning, not by a parity of construction as to the treason itself, when they came to construe it.

Lord Hale states it thus:—"Although the crime of high treason is the greatest crime against faith, duty, and human society, and brings with it the greatest and most fatal dangers to the government, peace, and happiness of a kingdom or state, and therefore is deservedly branded with the highest ignominy, and subjected to the greatest penalties that the law can inflict, yet by these instances"—he is stating those that had occurred before the statute of Edward 3rd and between that and the first of Henry 4th—"yet by these instances, and more of this kind that might be given, it appears—first, how necessary it was that there should be some fixed and settled boundary for this great crime of treason, and of what great importance the statute of the 25th of Edward 3rd. was in order to that end; secondly, how dangerous it is to depart from the letter of that statute, and to multiply and enhance crimes into treason by ambiguous and general words—as *accroaching of royal power, subverting of fundamental laws*, and the like; and thirdly, how dangerous it is by construction and analogy to make treasons, where the letter of the law has not done it, for such a method admits of no limits or bounds, but runs as far as the wit and invention of accusers, and the odiousness and detestation of persons accused, will carry men."\*

In another passage, after having given his comment upon this statute—after having stated what are the overt acts, which fall within the letter of it, and the sound interpretation of it, he says, "It has been the

great wisdom and care of the parliament to keep judges within the bounds and express limits of this act, and not to suffer them to run out upon their own opinions into constructive treasons, though in cases that seem to have a parity of reason (*like cases of treason*), but reserves them to the decision of parliament. This is a great security as well as direction to judges, and a great safeguard even to this sacred act itself; and therefore, as before I observed, in the chapter of levying of war, this clause of the statute leaves a weighty memento for judges to be careful that they be not over-hasty in letting in constructive or interpretative treasons, not within the letter of the law, at least in such new cases as have not been formerly expressly resolved, and settled by more than one precedent."\*

Gentlemen of the jury, I am persuaded, as those were persuaded who conducted the defence of lord George Gordon, that we live in days, in which the judges of the country neither have the inclination nor the courage to stretch the law beyond its limits. I think myself bound to state that; and those, who dare to state the contrary in any place, do not do the justice to the country, which is due from every individual in it.

Gentlemen, having stated thus much to you, I now state, in order to be perfectly understood, that I do most distinctly disavow making any charge of *constructive treason*; that I do most distinctly disavow stating in this indictment *any like case of treason* not specified in the statute; that I do most distinctly disavow stating any thing that can be called *cumulative treason* or *analogous treason*; that I do most distinctly disavow *enhancing any thing, by a parity of reason, into treason, which is not specified in that statute*; that I do most distinctly disavow *enhancing crimes of any kind, or a life spent in crimes, if you choose so to put it, into treason, if it be not treason specified in the statute*; and the question between us I state distinctly to be this—Whether the defendant is guilty of a *treason specified in the statute*, and whether the evidence that is to be brought before you amounts to that proof, that will be satisfactory to your minds and consciences, your minds and consciences being prepared to admit no proof, but what you think you ought to receive under the obligation of an oath, proof high enough that he may be "provably attainted of open deed," of a treason specified in the statute.

Then, gentlemen, to state the charge to you:—The indictment charges the defendant with compassing and imagining the king's death, and with having taken measures to effectuate that purpose.—Now, that it may be thoroughly understood, you will permit me to state to you here, that there is not only a manifest distinction in reason, but a settled dis-

\* Conclusion of chapter 11, part 1, of Hale's Pleas of the Crown.

\* Hale's Pleas of the Crown, part 1, ch. 24,



tion in the course of judicial practice, settled for no other cause but that it was a manifest distinction in reason, between—"like cases of treason," constructive, analogous, or cumulative treasons, and various overt acts of the same treason.

Gentlemen, whether the acts laid as overt acts of treason, specified in the statute, and specified in the indictment, amount, in all their circumstances, to an open deed, or deeds by which a person may be provably attainted of the specified treason, is the question which a jury are to try. To explain myself upon this, I take it to be clear, and I will not, in this stage of the business at least, enter into the discussion of what I call the clear and established law of England, because I will not in a case of high treason, any more than I would in a dispute about the estate of any gentleman who hears me, for the purpose of arguing points, enter into discussions upon what I take to be the clear and established law of England; and not only the security of the subject in this respect cannot, but the security of the subject in no respect, in his person, his life, or his property, can be taken to exist in this country, if I am not as fully authorized to state to you, with as much confidence, what the law is, in case of treason, from the decisions, which for centuries have been made in courts respecting it, as I am to state to you, from decisions of courts respecting property, what the law of property is. I say, I take it to be clear that deposing the king, entering into measures for deposing the king, conspiring with foreigners and others to invade the kingdom, going to a foreign country to procure the invasion of the kingdom, or proposing to go there to that end, and taking any step in order thereto—conspiring to raise an insurrection, either to dethrone the king, imprison the king, or oblige him to alter his measures of government, or to compel him to remove evil counsellors from him, are, and have all been held, as Mr. Justice Foster says, to be deeds proving an intent to do that treason, which is mentioned in the statute to be overt acts of treason in compassing the king's death.

It would be very extraordinary if these great judges, Foster and Hale, after holding the language they have stated, were to be represented by any man, as not acting themselves under the effect and influence of that weighty memento, which they held out to those who were to succeed them in the seat of judgment; yet I state all this to you in the words in which these learned judges have handed down the exposition of the statute, who would have suffered death, for they both valued the liberties of their country, before they would have charged "a like case of treason" in an indictment; and yet they have concurred (as all the judges of England have done, and the parliament into the bargain) in the construction and exposition of the statute (and in fact executions have been made upon it), that all

these things are overt acts of the same treason, that is specified in the statute. What is the reason of it? because the law holds that he, who does an act, meaning to do it, which may endanger the king's life, compasses and imagines the death of the king, if he does an act which may endanger his life, if in the ordinary course of things, and according to the common experience of mankind, the measure which he takes, in pursuance of a purpose to take it, will bring the king to his grave.

This therefore is not raising constructive treason, it is not raising treason by analogy, it is not stating "like cases of treason" not specified in, but reserved by the statute to the judgment of parliament, but it is stating overt acts, which are measures taken in pursuance of treasonable purposes, which measures must necessarily be as various in their kinds, as the ways and means, by which, in facts and open deeds, taken in pursuance of its purposes, the human heart manifests its intent to commit some one or other of the treasons specified in the statute.

Gentlemen, the reserving clause in the act is extremely material; and, if courts and juries have done wrong in the manner in which they have executed this statute, if the interpretations, which they have made of the statute, are not right, they have done it against a prohibition in the statute, which they were called upon by their oaths duly to expound, and they have done it in the presence and under the eye of that parliament, which had expressly forbidden them to do it. I say the conclusion upon that is, that they have done it rightly.

Gentlemen, the judgments of the courts of law are in this country perfectly familiar to parliament. Acts have been made, over and over again, in order to bring back the expositions of the law to the true construction, to the letter, which is the true construction, in a sound judicial sense, to bring it back again to the statute of Edward 3rd; but we have lived to this hour without parliament thinking that they were to make so perfectly a dead letter of the letter of the statute, as that they should say that an overt act, which expressed and imported the imagination of the mind to do the treason specified, should not be taken to be an act of high treason within the statute; because the statute only mentions the thing which is to be compassed and imagined, and does not mention the ways and means, by which the human heart may show and manifest that it does compass and imagine what the statute speaks of.

Gentlemen, this is not all, because this is not only according to the law of England, as it is administered in courts of justice, but also to the proceedings in parliament, which are a parliamentary exposition, if I may so state it, of the law. Proceedings in parliament have been had, where the statute has been thus construed, and where this distinction that I am stating between overt acts of the specified



treason and the "like cases of treason," has been expressly taken, expressly acted upon, proposed by one house of the legislature to the other house, and acted upon by the crown in executing the sentences of that house.

Gentlemen, the distinction then is only this—"a like case of treason" is a case of treason not specified in the statute, a case of the like mischief, as a case specified in the statute; but the identical case specified in the statute must be before you, or, to avoid all dispute upon the subject, I say, if it be a case that is not specified in the statute, it is a case that must be shown to parliament according to the directions of the statute: but that facts alike in their nature, that open deeds alike in their nature and tendency, however various in their circumstances, may prove the same intention to exist in the minds of those who do them, and may be measures, taken in pursuance of the same purpose, and to effectuate the same thing, is a distinction that appears to my mind to be perfectly obvious.

Gentlemen, I conceive, therefore, that the question of compassing the king's death is this—whether the jury are fully satisfied, conscientiously satisfied, that they have that evidence, by which they find that the acts, laid as overt acts of compassing the particular specified treason mentioned in the indictment, were measures taken in pursuance of and to effectuate that treason, specified at once in the statute and in the indictment.

Gentlemen, I protest for myself I am sorry to trouble you thus much at large by general reasoning, but you will find that it has an application, and a close application, to the case. This is an important public cause, and therefore we should be thoroughly understood. I cannot understand what constructive overt acts mean, though I do understand constructive treasons. Levying war against the king, not against his person, but against his royal majesty, is constructive treason; that is, if men assemble together without any intent to do an act, which in the natural consequence of things will affect the king's life, such as pulling down all prisons or houses of any other description, that is constructive treason, it being, by construction, as Mr. Justice Foster says, against the king's royal majesty, not levied against his person: not one of the acts of a more flagitious kind, wilfully done or attempted to be done, by which the king's life may be in danger, but which are levelled against his royal majesty; these have by construction been held to be treason: but even these the legislature has never considered as not authorized by the letter of the statute; these they have permitted to be proceeded upon in the country as sound decisions and constructions upon the act of parliament: many have been convicted upon them; execution hath followed; and no one hath ever doubted either the law or the justice of these determinations. But, as to constructive overt acts of compassing and imagining the death of the king, where

the indictment lays the imagining and compassing as the offence, the overt act is not constructive, the step taken to effectuate it must be such an act, wilfully and deliberately done, as must satisfy the conscience of a jury that there was an intention, by deposing, or otherwise, to put the king in circumstances, in which, according to the ordinary experience of mankind, his life would be in danger.

Gentlemen, I have before stated to you, for another purpose, various acts, which are overt acts of compassing the king's death. I will repeat them shortly: "Deposing him,—entering into measures to depose him,—conspiring to imprison him,"—which you observe is an act that may be done without an actual intent to put him to death,—a man may conspire to imprison the king without an actual intent to put him to death, but you will find the reason why that is held to be compassing and imagining the death of the king, with the sanction of all times since this statute of Edward 3rd, and with the sanction of every species of judicial authority, which the country could give; "to get his person into the power of conspirators."—Why is all this treason? "Because," says Mr. Justice Foster, "the care, which the law hath taken for the personal safety of the king, is not confined to actions or attempts of a more flagitious kind, such as attempts either to assassinate, or to poison, or other attempts, directly and immediately aiming at his life; it is extended to every thing, wilfully and deliberately done, or attempted, whereby his life may be endangered; and therefore the entering into measures for deposing, or imprisoning him, or to get his person into the power of the conspirators,—these offences are overt acts of treason within this branch of the statute; for experience hath shown that between the prisons and the graves of princes the distance is very small,"\* and experience has not grown weaker upon this subject in modern times; offences, which are not so personal as those already mentioned, have been, with great propriety, brought within the same rule, as having a tendency, though not so immediate, to the same fatal end.

Lord Hale, upon this, says, "Though the conspiracy be not immediately, and directly, and expressly the death of the king, but the conspiracy is of something that in all probability must induce it, and the overt act is of such a thing as must induce it, this is an overt act to prove the compassing of the king's death." The instance he gives, as expository of his text, is this: "If men conspire to imprison the king by force and a strong hand till he hath yielded to certain demands, and for that purpose gather company, or write letters, this is an overt act to prove the compassing of the king's death. What is the reason? he gives the same in substance, though different in the

\* Foster's Crown Laws, discourse 1, chap. 1, sect. 3.



terms of it, as that which has been assigned by Mr. Justice Foster: "for it is in effect to despoil him of his kingly government."<sup>a</sup> These are the words of lord Hale; and though the reasons given by lord Hale and Mr. Justice Foster are different in words, they are the same in substance. It may be said, with equal truth, between despoiling a king of his kingly government and the graves of kings the distance is very small. Imprisonment is the same as deposition, and he who compasses the deposition of the king, according to all judicial construction, compasses his death; it is the same as deposition, because it is a temporary despoiling him of his kingly government, which, according to this interpretation of the law, usually ends in death.

Gentlemen, offences not so personal as those enumerated fall within the same rule, as having a tendency to the same fatal end: if foreigners are not at war with you, the offence of going into a foreign country, or proposing to go there, or taking any step thereto in order to invite foreigners into this kingdom for a treasonable purpose, can only fall within that branch of treason of compassing the king's death: if they are at war with you, then the same act amounts to another species of treason, which is an "adhering to the king's enemies;" and perhaps you will find that the case I have to state is not without pregnant evidence of this species of overt act.

Gentlemen, having stated thus much to you, I proceed now to consider the indictment; and what I have stated, before I mentioned the substance of the indictment, I have stated to lay in my claim to full credit with you, when I say, that no man living can wish to express to you more strongly than I wish to do (we have indeed, each of us, as great an interest in the true construction of this law, as any other man can have in it), that the law of treason, in considering the charge, that I have brought before you under the command that has authorized me to bring it here, must not be extended one single iota beyond what is the established law in this country, as established as the law is, that says that the property that you bought yesterday, you may give to whom you please to-morrow.

Gentlemen, the indictment, finding several persons entitled to be tried separately, though indicted jointly, combined in a particular act, which I will state by-and-by, has charged them with compassing the king's death: it has then proceeded, because the compassing and imagination of the heart cannot be known to man—and there must be an overt act to manifest it—it has charged them with meeting among themselves to cause and procure a convention of divers subjects of the king, to be held within this kingdom, and not only a convention to be held within the kingdom,

but to be held *with intent and in order that the persons to be assembled at such convention and meeting should and might, wickedly and traitorously, without and in defiance of the authority, and against the will of the parliament of this kingdom, subvert and alter the legislature, rule, and government established in it, and depose the king from the royal state, title, power, and government thereof.*

It then charges them with having composed, written, and published, and caused to be composed, written, and published, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings, such books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings, so respectively composed, written, published, and caused to be composed, written, and published, purporting and containing therein (among other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of the king to choose, depute, and send persons, as delegates, to compose, not a convention, but such a convention and meeting, that is, *a convention to act in the manner that the first overt act has stated it, to be holden for the traitorous purposes before mentioned.*

It then states, as a third overt act, consultations among them, how, when, and where, such convention and meeting should be assembled and held, and by what means the subjects of the king might be induced and moved to send persons as delegates to constitute it.

It then charges, that these persons did consent and agree, that Mr. Joyce and several other persons named, should meet, confer, and co-operate among themselves and with other traitors, to cause the calling and assembling such convention and meeting for such traitorous purposes.

It then charges the providing of arms, of different descriptions, for these purposes; and then it charges a conspiracy to make war in the kingdom, and it charges a conspiracy to subvert and alter the legislature and government of the kingdom, and to depose the king: that is, as I understand it, that, if you should not be satisfied that the calling such a convention, as is mentioned in the first part of the indictment, was a mean to effectuate that compassing and imagination, which is mentioned in the introductory part of the indictment, yet you will find in the evidence, which is to be laid before you, even if you pay no attention to that circumstance of calling a convention, sufficient evidence of a conspiracy to depose the king.

It then states again, that they published several books, and other matters of the same kind, in order to bring about the traitorous purposes last mentioned; and charges, as a farther overt act, providing arms for that purpose.

Now, gentlemen, having before stated to you, that a conspiracy to depose the king,—

<sup>a</sup> Hake's Ideas of the Crown, ch. 13, p. 109, ed. of 1774.



and I have not stated it to you in my own words, but in the words of the authorities I mentioned,—that a conspiracy to depose the king, that a conspiracy to imprison the king, a conspiracy to procure an invasion, with steps taken to effectuate such a conspiracy (a conspiracy indeed itself being a step for that purpose, is treason; you will observe that in this indictment, a conspiracy to depose the king is expressly charged, and, I think, it will be clearly proved. If a conspiracy to depose the king be an overt act of high treason, permit me then to ask you, what can a conspiracy to subvert the monarchy of the country, including in it the deposition of the king, be, but an overt act of high treason? In the object of such a conspiracy the king is necessarily involved, and it is already shown that conspiring to depose him is compassing his death.

Gentlemen, read as you are in the history of the country, give me leave to ask you, if measures had been taken, after the Revolution, to effectuate a conspiracy to dethrone king William, and to restore king James, without all doubt, the measure taken, would have constituted the crime of high treason within the clause of compassing the king's death, although the conspirators could have been shown satisfactorily to have no more meant the actual natural death of king William, than they meant the actual natural death of king James, whom they intended to replace upon the throne—but what says the law to that?—the law says you cannot mean to depose the king without meaning to endanger his life, and if you mean to endanger his life you must abide the consequences of it.

Put it another way—If the project had been to depose the same king William, and measures had been taken upon it—not with a view to bring back to the throne king James 2d, but merely to send back king William to his former character of Prince of Orange, and not to restore king James, but to restore a commonwealth, which is what, I think I shall satisfy you, those, who are charged by this indictment, meant by “a full and fair representation of the people,” whether you call it “a full and fair representation of the people in parliament,” or do not use the words “in parliament,” can a lawyer be found to say, that it could be stated in law, that it is not high treason? I do not know what may not be stated—all that I mean to say at present is, that according to the best lights which I can get of the law under which I have lived, it does not appear to me to be probable, that any man will so state it. I am, however, to have the vanity to say that (avowing that I should certainly not think of encountering the current authorities of the country for centuries) I am, without the possibility of contradiction, stating that I am following the authorities of the country for centuries; but I am ready to say this, that I cannot conceive or imagine by what species of reasoning, or upon what principle, or upon

what authority, it is to be contended, that this would not have been high treason.

Gentlemen, take it another way—if the regicides of king Charles 1st had been tried for compassing the death of king Charles 1st, supposing they had only deposed him, instead of putting him to death, could they have contended, that though they would have been guilty of high treason if they had placed another individual upon the throne (which would have been alike to the case I have put, of conspiring to put James in the place of William), could they have contended then, that they were not guilty of high treason, because they deposed the king without substituting another king in his place; and because they left the government to be filled up by the commonwealth, without a king?

Give me leave to ask another thing—suppose it had happened after king William came to the throne, that not those events, which did actually happen, took place, but that any set of men in this country should have ventured to meet in a convention of delegates from affiliated societies, for the purpose of deposing king William, under pretence of assembling a convention of the people, having, or claiming the civil and political authority of the country, and intending to have no king in the country, would it have been possible in king William's time to have contended, because they met, under pretence of being a convention of the people, assuming to themselves civil and political authority, and with such meaning, that the conspiracy was not as completely a compassing the death of king William, as if the conspiracy had been, by the same persons, in the case of affiliated societies, forming the like convention of delegates, to bring king James again to the throne?

If I levy war in this country against the king, with intent to bring another upon the throne, I am guilty of high treason. If I levy war, that is an overt act of compassing the king's death. If I conspire to levy direct war that is a compassing of the king's death, unless all the branches of the legislature have put a man to death upon an error. If I hold a fortress \* against the king to put another

\* “Holding a castle or fort against the king or his troops,” says Mr. East, “if actual force be used in order to keep possession, is levying war, but a bare detainer, as supposed by shutting the gates against the king or his troops, without any other force from within, lord Hale conceiveth, (says Mr. Justice Foster), will not amount to treason. The last-mentioned judge has not told us what degree of approbation he gives to this instance of a detainer, which, as he says, lord Hale conceives not to be within the statute.

† To these words I find the following note by Mr. Hargrave, in his copy of East's P.C. now in the library of the British Museum: “Note, that the supposed case comes from Foster, not from Hale.”

upon his throne, I am guilty of high treason. Am I guilty of no offence if I do the same acts not for the purpose of continuing the monarchy of the country in another person, but for the purpose of destroying the monarchy altogether? What is this but doing an act involving in it high treason, and more? High treason in deposing the king! more—in bringing about all that additional anarchy, which we know, which the experience of mankind proves to be consequent upon the change, where the change is not only of the persons who administer the government, but of the government itself, if destruction can be called a change?

Gentlemen, to assert therefore that measures, taken for a total subversion of the monarchy of the country, including in it an intention to depose the king (mark the words, I state, including in it an intention to depose

"It may be fairly questioned, whether there be not many instances of constructive levying of war far short of the real guilt and consequences of such an act, and much less within the true meaning of the stat. 25 Ed. 3rd? Lord Hale prefaces the passage in question thus: *If B. either fortify his own house, or the house of another, with weapons defensive or offensive, purposely to make head against the king, and to secure himself against the king's regal army or forces, then that is a levying of war against the king.* He then proceeds. *But the bare detaining of the king's castles or ships seems no levying of war within this statute.* And his lordship refers to a subsequent part of his work, where he grounds his reasoning solely on the stat. 14 Eliz. c. 1. having enacted the same things during the queen's life. This, if it stood, alone would not be a conclusive argument, as might be proved by many passages, as well as by the express declaration of the same author. Besides which, that statute was certainly creative of new treason; for it makes the wilful and malicious burning of the queen's ships treason, without any farther qualification. But, most of all, I find it difficult to reconcile this opinion with the preceding part of the passage which I have referred to; for, supposing a treasonable intent to exist, what solid distinction can there be between a man's fortifying his own or another's house, purposely to make head against the king, and to secure himself against the regal forces (which is admitted to be an overt act of levying war), and the case of one who detains the possession of the king's own fortress against

the king), are not overt acts of compassing the king's death, merely because the statute of Edward 3rd, has not included all overt acts in words, but as left to juries to determine what are overt acts, by which they can probably attain—to assert that the statute does not include the case, because it is compassing the death of the king, *and more*; if this were to be asserted in a court of justice (what is asserted out of a court of justice no man pays much attention to), I should certainly say of it, that it was the assertion of those who had ill considered the law; and if asserted out of a court of justice, and with a reference to what is to be done in a court of justice, I should say it deserved to have an observation of a harsher kind made upon it.

This indictment, besides charging a conspiracy to depose the king, in express terms, of which I shall insist before you there is abundant evidence, charges a conspiracy to call a

himself, with the same intent? for the manner of putting the first case supposes that no resistance has been actually made. On the contrary, is not the latter case, put by lord Hale, as much at least within the reason and contemplation of the stat. 25 Ed. 3rd, as the former one? Is not the act of fortifying a private house, which may happen from caprice of a more equivocal nature in itself than that of a governor of a fortress refusing to deliver it up to the king upon his summons, and shutting the gates against him. Admitting, that this latter is not conclusive evidence of a traitorous intent any more than the other; yet surely it seems sufficient to leave to a jury. *It is holding a castle against the king*, which is as much an act of hostility, and a throwing off of the allegiance due to him, as any of the ordinary preparations of war are admitted to fall within the description of levying war, though no act of force has been in fact exerted. In the case of the earl of Essex, it is even said, that keeping armed men against the king's command is a levying of war against him (but this must be understood, that the purpose for which they were armed was treasonable), which is a far less decisive act of opposition than the other, and lord Hale himself, speaking in another place of the stat. 26. H. c. 13, says, that that part of it whereby the rebellious detaining of the king's castles, after summons by proclamation is made high treason, seems to be treason within the stat. 25, Ed. 3rd; and both lord Hale and Foster, J. agree, that if the bare detainer be done in confederacy with enemies or rebels, that circumstance will make it treason, in the one case under the clause of adhering to the king's enemies, in the other under that of levying war. The same rule applies to the delivery up of a castle to rebels or enemies, by treachery, and in combination with them; but not if it happened through cowardice or imprudence." 1 East's Pleas of the Crown ch. 2, s. 14.

"I do not so understand lord Hale." Hargrave, *ut sup.*

"Not quite so; I apprehend lord Hale puts the case of a bare detaining; the statute that of a detaining maliciously or rebelliously with force, and not rendering the same within six days after proclamation." Hargrave, *ut sup.*



convention against the will, in defiance of, and against the authority of parliament, for the purpose of deposing the king; it charges farther acts, namely, that they caused to be composed and written divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, containing incitements, inducements, and exhortations, to move, seduce, and persuade the subjects of the king to send delegates to such convention; as to which I say of many of them, though I did not know their real character till I had seen them all together, that they are both overt acts, and evidence of overt acts of high treason.

Now, before I state to you the particulars of the evidence, I am afraid I must, however painful it is to me to ask so great a portion of your attention, trouble you with some general observations, that I think will have a tendency to render intelligible to you the complicated mass of evidence, which I have to lay before you.

Gentlemen, the convention, meant to be called by those who are charged with the conspiracy in this indictment, was, as I collect from the effect of the evidence, a convention of persons, who were to assume the character of a convention of the people, claiming, as such, all civil and political authority, proposing to exercise it by altering the government, otherwise than by acts of the present constituted legislature, otherwise than by those statutes, according to which the king has sworn at the hazard of his life to govern.

Gentlemen, if this is made out, it appears to me to follow necessarily on the part of all who took a step to assemble it, that they are guilty of a conspiracy to depose the king, to depose him from the character which he holds in the constitution of the sovereign power of this kingdom, as by law established, that law by which I again repeat to you, he is sworn to govern.

Gentlemen, if they conspired to assemble in a convention, which was of its own authority, and against the will of the legislature, and in defiance of it, to act as an assembly to constitute a government, and to assume so far sovereign power, it is, I conceive, according to the law of England, a conspiracy to depose from the sovereignty him, who under the restraints of the constitution and the law, now holds that sovereignty. There cannot be two sovereign powers in a state; there may be a complication of authorities vested in a great variety of persons, making up one sovereign power, but there cannot be two sovereign powers in a state; it is impossible. If a meeting assembled as a convention of the people, arrogating to themselves all civil and political authority as such, and meaning to exercise it, one or other of these consequences must follow: the king and the parliament must be obedient to the meeting, or the meeting, assembled as a convention, must be obedient to the king and parliament: if the meeting is to

be obedient to the king and parliament, it cannot effect its purposes; it is impossible: if its purpose be to depose the king, I say, a conspiracy to call such a meeting is an overt act of high treason.

Gentlemen, I beg your attention to my expressions: if the meeting means to oblige the king and parliament to be obedient to them by the exertion of open force, though it may not effect its purpose, that makes no difference, the law must be the same—I may be wrong perhaps in stating the law, but it appears to me that the law must be the same if the meeting projects the purpose, whether the force of the meeting is sufficient to effect the purpose or not.

This, I say, is a conspiracy to assume the sovereign power: it is a conspiracy therefore of necessity meant to depose the existing power, and of necessity to depose the king. I say meant to depose; for I repeat it, that whether the conspiracy is successful or not, is immaterial.

Gentlemen, though the particular fact of calling such a convention, now alleged as an overt act of treason, may be represented to be new in the history of this country, it is not therefore, and because it is new only inasmuch as it is more than ordinarily audacious, less an overt act of compassing the death or deposition of the king, if the intent of it was to subvert the sovereign ruling power.

Gentlemen, there is another distinction, to which I would beg your attention. It is of no consequence whether the first meeting, proposed to be assembled, was designed to be a convention, that should assume all civil and political authority, or was only to devise the means of forming a constituent assembly, a body which should assume it; for any act taken towards assuming it against the will, in defiance of, and against the authority of the king and parliament, and removing him from that situation in the character of sovereign, which he has in this country; any act taken towards the formation of a body, which was to assume such authority, is an act of conspiring the deposition of the king: any act towards convening a national assembly, to act with sovereign power, not formed by the legislature, is an act done towards deposing the king, who now has, under the restraints of the constitution, and the provisions and limitations of the law, the sovereign power vested in him. You cannot set about organizing a body, which is thus to act, without meaning to depose the king, without meaning to form a body that is to usurp the powers of government.

Gentlemen, I think the evidence, that I shall lay before you, will most abundantly satisfy you that the convention, which the persons charged conspired to form, was a convention to alter the whole form of the sovereign power of this country, that it was to form, or to devise the means of forming, a representative government—to vest in a body, founded upon universal suffrage, and the al-



leged unalienable, and, as they are called, imprescriptible rights of man, *all the legislative and executive government of the country*; that a conspiracy to this end would be an overt act of high treason, I presume cannot be disputed; it deposes the king in the destruction of the regal office in the constitution of the state.

Gentlemen, I go farther: if it had been intended to have retained the name and office of the king in the country, and to have retained it in the person of the present king, creating, however, by the authority of the intended convention, a new legislature, to act with him, provided they would allow him to act with such new legislature, and thus calling upon him to act against the express obligations of his coronation oath, if he could forget it, it still would have been a conspiracy to depose him from his royal authority, as now established: if he refused to act, he must necessarily be deposed from that authority; if he did accept, he was not the king of England, as he is established by law the king of England. But he could not accept; he could not so govern; he is sworn not so to govern; he must refuse, must resist, and, in consequence of resisting, his life must be in danger.

Take it either way, that persons conspired to form a convention to assume all civil and political authority, as pretending to be a convention of the people (I care not with how much audacity they pretend to be a convention of the people), or to devise the means of constituting such a convention, in order, and with the intent, and against the authority of parliament, that there should be no king, or in order to the erecting, by their own authority, a new legislature to act together with a king, and together with the king, if they permitted *the present* to be the king, I submit that such a conspiracy is an overt act in the true construction of law, and high treason in compassing the king's death. The king must be deposed while such a new constitution was framing; he could not treat with such a convention till he had been deposed; it could be those only, that had sovereign authority, that could frame a constitution: then he is surely, by this, despoiled of his kingly government, even as in a case, of temporary imprisonment. I repeat again, that he could not, consistently with his coronation oath, do otherwise than reject it when framed: it must be taken for granted he would reject it; his life, therefore, could not but be in danger. To suppose that such a meeting, which proposed a new constitution, would depart quietly home, and not act, if it was not accepted, is out of the reach of all human credulity; it is not according to the ordinary course and experience of mankind, to suppose that they should meet in numbers, and make no use of their numbers, if the show of them did not produce the effect intended: this is not according to the ordinary course and experience of mankind.

Gentlemen, the king in his parliament

could not be the sovereign power the moment the meeting could act as a national constituting assembly, or could direct, with effect, such an assembly to meet. The power so to act, or to organize with effect such a meeting that should so act, must *pro tempore* depose every other power. This is the character of a convention of the people, I think, as given in the evidence I have to lay before you. With respect to the defendant, I think I shall satisfy you he conspired to call such a convention; and that he said that the convention, which I am to call, is irresistible, it is unlimited, it is uncontrollable, and that by such a convention, my *full and fair representation of the people*, or a *full and fair representation in parliament* (if you choose to take that expression, for it is not mere expression that determines what men mean), is to be accomplished.

Gentlemen, in the country in which I am speaking, when a vacant throne was given (I am now alluding to the time of king William) by those, who, as they are stated in the Bill of Rights, represented all the estates of the people of this realm, to king William and queen Mary, they, who gave it, ceased to have or to exercise the power of sovereignty: in that instant, as every lawyer must speak of it, in that instant the sovereign power of this country became vested in *the king and queen* upon the throne, to be exercised in legislation, undoubtedly, with the advice and consent of parliament, formed according to the law and custom of the country—incapable of being exercised otherwise, and, as to the executive authority, exercised under the control of provisions and limitations of the law and constitution, and with the advice which, in every act which the king does, makes somebody responsible.

I insist that the design of conspiring to assemble the people, who were to act as a convention of the people, claiming all civil and political authority, or claiming power to alter, against its will, the constituted legislature, or a meeting to form the means of bringing together such a convention so to act, is an attempt to create a power subversive of the authority of the king and parliament, a power, which he is bound by oath to resist at all hazards. But it will not rest here: this will be sufficiently proved; but evidence will likewise be offered to you as satisfactory to prove that the express object of calling this convention, the express object of appointing a committee of conference and co-operation, which was to devise the means of constituting such a convention, was ultimately, and finally, and in their prospect, *the deposition of the king*.

Gentlemen, beyond this, and supposing it not to be proved, the indictment has charged as overt acts, a conspiracy, without the mean of a convention, and not through that medium, to depose the king; if that conspiracy is made out by other acts, though neither



a convention, assuming all political authority, nor a meeting to devise the means of calling a convention, which should assume all political authority, was intended, yet the indictment is made good.

Gentlemen, the indictment farther charges as an overt act of compassing the king's death, which without question it is, the conspiracy to levy war; I do not mean constructive war. This I state, without question, to be an overt act of compassing the king's death. A rising to oblige the king to alter his measures of government amounts to levying war within the statute. A conspiracy to levy war for this purpose is an overt act of compassing the king's death. If they conspired to form a *representative government*, excluding the king entirely, which I say is the fact, or, if they conspired not to form a representative government, excluding the king entirely, but yet to compel him, by their own strength and force, to govern with others, and without those, which he chose to remain with him, by whose advice and consent alone he is sworn and bound to govern, I mean the great council of the nation, the Lords in Parliament assembled, the Commons in Parliament assembled, according to the constitution of the country, and to substitute against his will, and against the will of the present constituted authority of the country another authority, formed on the principles of universal suffrage and annual representation, and so formed without the authority of parliament, I must submit to the court, and to you, that conspiring to do this would be an overt act of treason of deposing the king, and therefore of compassing his death.

Gentlemen, you will also observe the indictment has charged, and proof will be offered to you to make it out, that these objects were meant to be carried by force, by actual force.

Gentlemen, the case, as I have hitherto represented it, is not a case aiming merely at intimidating the legislature, and inducing it by an act done, which was, according to the forms of the constitution, to bury the constitution in its grave, to new-mould the sovereign power; the case goes far beyond this; application in any shape to parliament was not only disavowed, but the very competency of parliament, if applied to, to make a law to new-model the government, was disputed, and denied; the idea of that competency was held to be irreconcilable to the very principle upon which these persons assembled. I must however insist, and I mean to do it, with the full concurrence of my humble opinion, that a conspiracy to compel the king, by force, against his will, to give his assent to an act obtained from the Houses of Parliament in order to alter the government and frame of the constitution of the country, whether it was obtained from the two Houses of Parliament, or either of them, by overawing them, or not overawing them,—that a conspiracy,

by force, to compel the king, in the exercise of the highest and most essential act of the sovereignty of this country, in the act of giving his consent to such an act,—to compel him, by force, to do that, is unquestionably an overt act of treason in deposing him, and in compassing his death. It is neither more nor less, to explain it in a word, than to substitute the will of those, who conspired to force him, in the room of that royal will, in which, and by which alone, the laws of this country, and the constitution of this country, have said that a bill (however obtained before it comes to him) shall receive the authority of a statute.

Gentlemen, I have thought it necessary to state thus much before I come to state the circumstances of the case, and I will state to you in a word why. It is not to be expected by persons, who execute the great and important duty in the great and important station, the functions of which you are now called upon to execute, that counsel at the bar shall be able to state to you law, that no man can question the soundness of: nay, gentlemen, it is not to be expected by you that counsel at the bar should be able to state to you in all cases law, which men of grave character, and excellent understandings, of great reason, and great experience in their profession, may not dispute the soundness of. It is the duty of counsel, more particularly it is the duty of that counsel, who ought to remember that, if, in prosecuting the subject, he presses him unfairly, he betrays in the most essential point the duty which he owes to the sovereign: it is his duty to endeavour faithfully and honestly to explain and expound the law, that is, to apply to the facts of the particular case, reasoning upon the law, according as he is able to do it, in the exercise of painful industry, exerted under the reflection that he is under much obligation at least to endeavour to represent the law truly.

Gentlemen, I have thought it my duty, in a prosecution, the principles of which interest the civil happiness of all mankind, to mention distinctly and fairly what are the principles upon which I proceed; I have no doubt in my own mind, but that I have stated these doctrines as the law of England would state them, and; I claim from you and from the public that, in the fair exercise of my duty, conducted under such a sense and understanding of that duty, as I have now explained to you, you and they will do me the credit at least to think, that the principles which I have stated are such as I believe to be sanctioned by the law of England.

Gentlemen, I shall presume for a moment, after having read to you the indictment, and given you that exposition of it, which I humbly offer to your attention, that the law has (at least, according to my judgment, it certainly has) been complied with in this respect; namely, the indictment has told you with sufficient certainty what it is, that is meant to be imputed as an overt act of com-

passing the king's death. It is not necessary to be disputing that now, because, if I have failed in the due execution of my duty in that respect, the prisoner cannot be injured by it.

Gentlemen, I have before said to you, that, in a case of high treason, the evidence must not only be convincing, but it must be formal; and, though the object of the security of the person and government of the king is the highest object that the law has looked to, yet I must, at the same time, inform you, that the law for the security of the public, which is in truth part of the object involved in the object of the security of the person and government of the king—is essentially united with it—and inseparable from it: the law has required not only that you shall have one witness, if he were the most credible man in the world, to give convincing evidence of the fact, but that that convincing evidence must be rendered yet more conclusive by the testimony of two witnesses; that you should at least have one witness to one overt act, and another to another overt act of the same species of treason.

Gentlemen, having stated to you the project, in a general way, to which I apprehend this indictment applies, I presume that you may possibly reason thus: When this indictment charges, that these persons compassed the death of the king, and to depose him,—that they conspired to assemble a convention in defiance of the authority of parliament,—to subvert the rule and government of the kingdom, against the will and in defiance of the legislature,—to dethrone the monarch, reigning in the hearts of a great majority of his people, you will naturally ask,—by what process was it, that such persons as these could effectuate such a purpose? When the indictment charges, that they composed a great variety of books, containing incitements to choose persons, as delegates, to compose a convention for such traitorous purposes,—in what language, you will naturally ask, could such incitements to such a momentous project, have been conveyed, and to whom could that language have been addressed? When it charges, that they met, and deliberated among themselves, together with divers other false traitors,—at what time, in what manner, and in what place, it may be asked, have these people met to deliberate upon that project, for the accomplishment of which so many persons must be engaged?—By what means were they to bring together the subjects of the country, to send delegates to such a traitorous convention, to assume such sovereign power? This sort of question may be pursued. I shall not pursue it by observations upon every overt act in this indictment.

Now, gentlemen, my answer to this is a short one. I think it will be proved to your satisfaction, that, as they meant, in the words of the act of parliament, to introduce that system of misery and anarchy, which prevailed in France, they meant to introduce

it by the same means,—to proceed upon the same principles to the same end,—and by the same acts to execute the same purposes.

Gentlemen, if the experience of Europe had not manifested what has passed in France (and this project might perhaps be brought from France into Great Britain by but an individual or two), if that experience had not shown us what has passed in France, to the destruction of its old government—to the destruction alike of that government which they substituted in the room of its old government—and which, in the last act of its power, protested against the existence of clubs, as incompatible with the security of any country, I say, till the subversion of government in France took place, and upon principles, to a blind admiration of which in this country,—a country which, under the peculiar favour of Providence, is alike in its blessings, as it is in its situation, "*toto divisos orbe Britannos*," we have found a disposition to sacrifice all those blessings—it could not perhaps have entered into the heart of man to conceive, that a project so extensive should have been set on foot by persons in number so few;—that a project, existing almost every where, should yet be visible no where;—that a project should be so deeply combined, and complicated,—should exist to such an almost inconceivable extent,—should be formed with so much political craft—it could not enter into the heart of man to conceive, that it should have existed in any country, much less, that it was possible that it should exist in this country of Great Britain to the extent in which I am sure, whatever your verdict may say upon the guilt of the prisoner, you will be satisfied it has existed in this country.

But the law of England does not require that any such case as this should be proved before you. If you are satisfied that what the indictment charges was imagined, and that a step was taken to effectuate that intent, it is enough—it is not the extent, in which the project was proceeded upon—it is not the extent to which the project was ruinous—it is not necessary to prove, that the means were as competent to the end proposed, as they were thought to be, by those who used them. No, gentlemen, the providence of the law steps in upon their first motion, whether they furnish themselves with means adequate or inadequate to their purposes—the law steps in then, conceiving its providence at that moment to be necessary for the safety of the king and the security of the subject.

The project, the general character of which I shall give you, proving it by the particular facts, and applying the particular facts (for I have no right to give you the general project, unless I can so apply the particular facts) to the person now accused, seems to me to have been this. Imported from France in the latter end of the year 1791 or 1792, by whom brought hither it does not much matter, the



intent was to constitute in London, with affiliated societies in the country, clubs which were to govern this country upon the principles of the French government, the alleged unalienable, imprescriptible rights of man, such, as they are stated to be, inconsistent in the very nature of them with the being of a king or of lords in a government—deposing, therefore, the moment they come into execution, in the act of creating a sovereign power, either mediately or immediately, the king, and introducing a republican government with a right of eternal reform, and therefore with a prospect of eternal revolution.

Gentlemen, we have all heard of a club called the Jacobin Club at Paris. This, with its affiliated societies,—however impossible it was thought that it should effect such things,—however wild the man would have been thought, into whose head such an imagination could have entered as that it could effect them, first overset the old constitution, then introduced another, which could not exist upon the principles which gave it birth, and has finally introduced government after government, till it has at last left the country in that undescribable state of things in which we now see it.

Gentlemen, the great end of the persons concerned in this project, though not altogether visible, or not much disclosed upon its first formation, was, when they had sufficiently diffused their principles through this country, by artifice,—by union,—by combination,—by affiliation,—by fraternization (those who formed the project, whoever they were, endeavouring to force it into execution by means which perhaps would shock the minds of men that are not always dwelling upon political subjects), to assemble a convention of delegates from clubs, to assume the power of the people, supported in the assumption and exercise of that power by the individual members of the affiliated societies, and by their combined strength.

Gentlemen, we have no occasion in this cause to be disputing upon abstract questions, as to the power of the people to change their government. I state to you, that the intention was, to assemble a convention of delegates from those clubs, to assume the powers of government. The people, the infinite majority of the people adverse to any change, distinguishing between abuses in the administration of the government, and vices in the form of the government administered, nay, ardently attached to the old government, must have been averse to have been subdued by a convention of the delegates from these societies, who meant to have assumed the representation of the people, and to have exercised the powers which they stated to be inherent in those whom they professed to represent.

Gentlemen, it is not difficult to conceive, after what has happened in fact in France, how it should happen that the opinion of these

fraternizing societies should have the force of the will of a majority of the nation, though they constituted a vast and infinite minority indeed. You will find, in the evidence to be laid before you, that it was perfectly understood how this might be by those who are named in this indictment. The great bulk of the community, engaged in different pursuits, are therefore incapable of being combined in opposition to the execution of a purpose, which is to be brought about by great bodies of men, that are combined. I need not give you a stronger instance of it than this:—It is within the memory of most of us living, that a few thousand men in St. George's-fields, combined in one purpose, reduced this metropolis to an absolute state of anarchy, a state in which no government existed.\* If any man had been asked, a fortnight before the event to which I am now alluding, Is it possible for four or five thousand men to assemble in St. George's-fields, and to rob and plunder every body they choose in London and ten miles round it? That would have been thought utterly impossible—but yet it happened—why? because a combination of the few will subdue the many, who are not combined, and with great facility; and combined bodies of men have had, as you will find, an existence in this country, to an extent which few men had any idea of.

You will find them organized,—prepared for emergencies and exigencies,—relying upon their own strength,—determined to act upon their combined strength, in a system of acting together,—in some instances acting with a secrecy calculated to elude observation—in other instances, proceeding, by directly contrary means, to the same end,—representing their numbers as greater than they were, and therefore increasing their number by the very operation of the influence of the appearance of strength upon the minds of others, without a possibility that that misrepresentation should be set right. You will find them inflaming the ignorant, under pretence of enlightening them;—debauching their principles towards their country, under pretence of infusing political knowledge into them;—addressing themselves principally to those whose rights, whose interests are, in the eye of the law and constitution of England, as valuable as those of any men, but whose education does not enable them immediately to distinguish between political truth and the misrepresentations held out to them,—working upon the passions of men, whom Providence hath placed in the lower, but useful, and highly respectable situations of life, to irritate them against all whom its bounty hath blessed by assigning to them situations of rank and property,—representing them as their oppressors, as their enemies, as their plunderers, as those whom they should not suffer to exist;—and,

\* See the case of lord George Gordon for high treason, *ante*, Vol. 31, p. 483.



in order, at the same time, to shut out the possibility of correcting original error, or rectifying the opinions of those whom they had so inflamed, misinformed, debauched, and misled, not admitting them into these affiliated societies till they had subscribed tests—the principles of which they were not to examine after they had been admitted, but the principles of which they were to carry into execution, when assembled in a convention—to carry into execution those principles, as acting for the people, by a great majority of whom they were held in utter detestation.

Gentlemen, to say that an act done was meant to be done as a means taken in the execution of such a project as this is, till the person, who takes it, thinks the scheme practicable, I admit is not reasonable, but undoubtedly he may think it practicable long before it is really so. Now, you will be abundantly satisfied, that these conspirators thought that the time was now come—that the time for a convention, which had been the object of anxious expectation, doubting for a year or two whether it would ever be gratified, that that time was now come, and the measures taken upon that supposition—that the opportunity had arrived, which, if not laid hold of now, would be lost for ever.

Gentlemen, the people of this country have in general a rooted attachment to its government. The public opinion of government is in this country, as well as in every other, its principal support: and therefore it became necessary to infuse, where so much could be safely suggested, where the mind was prepared for it, an opinion, that the form of the British government was radically vicious—that it was founded on principles of oppression—that it was founded on the destruction of natural, imprescriptible, and unalienable rights.—With others, you will find, they thought it necessary to use a little more caution—not to alarm them, but to humour their attachment to the form of the constitution, by taking advantage of well-meaning ignorance, under pretence of instructing it, to enlist them also alike in the project of destroying that constitution to which they were attached. To them, therefore, the form of the government was not spoken of in terms which they might understand to be a condemnation of it, though they were really such, but by making use of general expressions, such as claiming “a full and fair representation of the people in parliament”—“a full representation of the people,” sometimes without mention of parliament—never with actual mention of the King and Lords, as co-existing together with parliament; by using terms, which certainly may mean what it may be contended in the defence they did mean; but terms the same in their expression, certainly the same in their import, as those which were used in every act which passed in this country during the time of the Commonwealth, when we neither had King nor Lords; that may signify

VOL. XXIV.

nify a government existing without Lords or King, by declaring the obtaining such a representation of the people as necessary to the natural, unalienable, imprescriptible rights of man, as stated by Mr. Paine: by these means and artifices, they attempted to engage in their service the physical strength of men, who might not and did not discover the real nature of the plan, which that strength was to be employed in executing; who had not information enough to discover what the representation was meant finally to do or to execute. But you will find the persons mentioned in this indictment had no doubt about it. I mark these circumstances to you, because, in the evidence that is to be laid before you (and I am now stating the general character of the evidence, and not the principles upon which the charge is made), in the evidence to be laid before you of the plan for the execution of these purposes, some very remarkable particulars occur; and when you come to decide upon this case, I humbly beg your attention to those particulars; some very remarkable particulars will occur.

You will find that the leading clubs, by which I mean the Constitutional Society, judging of its conduct for the purpose of this cause, though in some other cases we must go farther back, but, for the purpose of this cause, judging of its conduct from about the beginning of the year 1792, and the London Corresponding Society, which was formed, whether created, I will not say, but which was modelled by some leading members of the Constitutional Society, and received its corporate existence, if I may use the term, as it will be proved, under their own handwriting; most distinctly from the handwriting of some, who yet belong, and some, who have ceased to belong to the Constitutional Society; these leading societies, you will find, enlisting into their affiliation many societies in the country, composed of men who expressed their doubts as to the views of these societies in London; who expressed their fears as well as their doubts about those views; who required information as to the purposes of those societies in London; some of these societies in the country professing one set of principles, some another; but all assistance is taken that is offered: accordingly you will see, that the London societies enlist persons who profess, “that they ought to submit to no power but what they have themselves immediately constituted:” to these they give answers, couched in dark, cautious, prudent, but satisfactory and intelligible terms: those who profess still to have attachments to the monarchy of the country, and who express apprehensions about its safety from the principles of the London societies, and the conflicting principles of various country societies, they soothe into fraternization, by telling them that all would be set right “by a full and fair representation of the people in parliament;”—a name which was given to the

T



Commons under Cromwell, as well as to the legitimate parliaments of this country at different periods,—without telling them either what these words meant, or how that parliament was to operate to reconcile these differences, which you will find amounted *only* to the differences between an attachment to an absolute republic, and an attachment to a limited monarchy.

They enlist alike those, who expressed a wish to know whether they proposed to *reform the House of Commons*, and those who wished to know whether they intend to *rip up monarchy by the roots*; their answers were calculated to satisfy each of them, to satisfy whatever might be the disposition of those, who address the questions to them, requiring information upon subjects so totally different.

Gentlemen, this is not all: you will find again, that for these purposes, publications upon the government of the country, which are alluded to in this indictment, and which will be given to you in evidence, that publications upon the government of the country were adopted by those societies as their own, and circulated, if I may so express myself, in a mass round the country, circulated in a manner, that totally destroys the liberty of the press in this country.—The liberty of the press in this country never ought to be under an undue correction of the law, but it must always be, for the sake of the people, subject to the correction of the law: you will find that these publications are either brought into the world with such a secrecy as baffles all prosecution,—published without names of authors or of printers,—published by contrivance, I am sorry to say by contrivance published in the dead of night (though they are the works of men who have talents to state them to open day, if fit to be stated to open day), and published in quantities, which make the application of the wholesome provisions of the law utterly incompetent to the purpose of allowing the correction of the law to be as frequent as the commission of the offences against it has been.

Gentlemen, with respect to many of these publications I may take notice of what has happened in the history of this country, and though no man wishes less to talk of himself than I do, yet I am speaking in the presence of many, who have heard me both in court and in parliament respecting those publications to which I allude (and which will be offered to you in evidence), express the difficulty that my mind laboured under to concede that such a publication as the Address to the Addressers, was not, according to law, an overt act of high treason.—It did appear to me that the publication of the book called the Address to the Addressers was an overt act of high treason, for the purpose of deposing the king; at least I thought it required an ingenuity and subtlety, much beyond that which belonged to my mind, to state satisfactory reasons why it

was not so; but there were reasons satisfactory to those who can judge better than I can and therefore that book was treated only as a libel:—but when I come to see it, as connected with the mass of publications alluded to in this indictment,—as connected with measures that I have to state to you in the course of opening this cause,—and as connected with the project which this indictment imputes to depose the king, I say it is either most distinct evidence of an overt act of high treason, or it is an overt act of high treason itself.

Gentlemen, you will also not fail to observe (and I state it as a general feature and character of the evidence that I have to lay before you)—the malignant art, and if I may so express myself, the industrious malignity, with which discontent has been spread by these two societies in London, and the means of spreading it have been studiously and anxiously taught from society to society:—the means of spreading sedition, fresh as from London, in every town, all with reference (for they are not material, if you do not find they had such a reference) to the final accomplishment of the same purpose: you will not fail to observe how the passions and interests of individuals have been assailed, and the method of assailing them taught, according to their stations in life—not merely upon government,—but, for the purpose of subverting government, upon tithes—corn-bills—taxes—game-laws—impress service—any thing that could be represented as a grievance, as well as the government itself, and to this intent—that, in aid and assistance of each other, societies, as they expressed it, “might overspread the whole face of the island,” and “that the island might become free”—you will mark their expressions—“by the same means by which France became so.”

Gentlemen, in stating to you the character of the evidence, it is necessary for me to make one observation, and it is the last I shall trouble you with: it is with respect to the principles upon which construction is to be given to the written evidence that will be adduced in this cause. Now I desire to state this to your minds as a principle perfectly reasonable in the administration of justice towards men, who are called upon to answer for offences that the language which they use, ought to be considered according to its obvious sense. If the language admits, and naturally admits, of a double interpretation, it must then be considered according to the nature of the *principle* which that language is calculated to carry into execution; each paper must be considered with reference to the context of the same paper, and with reference to the contents of all other papers that form the evidence of the same system, which the paper produced is meant to prove.

Now, if you should find that, in *detailing* the objects of this society, in *detailing* what they meant to do, and in *detailing* how they



meant to execute what they purposed, they should in fact have stated that they meant neither that which was legal,—nor that which was constitutional,—nor that which was other than treason, it will be in vain that they have thought fit (for the greater prudence, the greater care, and the greater caution which you will have most abundant evidence to prove they exercised occasionally, but add to the guilt by increasing the danger) to assert at other times, when they have used general language, that what they meant to effect was legal and that they meant to effect it in a legal and constitutional manner. It will become them who have the defence upon their hands, to state to you how, in a legal and constitutional manner those things could be done, which were intended to be done, and which this indictment states were intended to be done, if I prove to your satisfaction that they were intended to be done by the means and instruments, which the indictment refers to.

Gentlemen of the jury, their principle, as you will find, was, that equal active citizenship is the right of all men, and that upon this principle their representation of the people was to be asked for. Now, it requires no reasoning to state, that a representation of the people founded upon the principle of equal active citizenship of all men, must form a parliament into which no King, nor Lords, could enter. There is an end of equal active citizenship: the moment that either of them exists, according to my construction of equal active citizenship, and according to *their construction of it*; for they state that the effect of it is a *representative government*. But it is not enough for me to tell you, that, in reasoning, this is the consequence; it is a circumstance to be taken into your consideration; but I say I shall satisfy you, if I am bound to go farther, that the application of the principle of equal active citizenship, according to them, was to be the foundation of a *representative government*, rejecting the King and Lords out of the system. The principles were the principles upon which the constitution of France, in the year 1791, was formed: the principles of that constitution were the principles of equal active citizenship: they attempted indeed to preserve a king in the constitution, and to form what I may call a royal democracy: but I shall prove to demonstration, that the leaders of these clubs in London knew that that constitution could not exist, that their principles led them to a distinct knowledge that that constitution could not exist: it was in the month of August 1792 entirely overturned; and you will find from the transactions of this society in the months of October and November 1793, unless I mistake the effect of the evidence, the clearest demonstration that these societies meant in applying those principles, which they themselves state had destroyed the existence of a king in France, because they must destroy the exist-

ence of a king in any country,—you will find that, from October 1792 at least, these societies meant to destroy the king in this country, and that this was the natural effect of their own principles, as they understood them.

Gentlemen, you will now give me leave to state to you, as well as I can, and as intelligibly as I can, the mass of evidence, and the case which I have to lay before you.

The particular act, the nature of which will be to be explained by all the rest of the evidence, which has led to the including these particular persons in one indictment, arose out of a letter, dated the 27th of March 1794, which was written by the prisoner, then the secretary of the London Corresponding Society, to the society for Constitutional Information. The words of it are these:

"I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require. The London Corresponding Society conceives that the moment is arrived"—mark the words; for, in the rest of what I have to state, you will frequently hear of the time to which that alludes—"when a full and explicit declaration is necessary from all the friends of freedom, whether the late illegal and unheard of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform with an ardour proportionate to the magnitude of the object, and with a zeal as distinguished on our part as the treachery of others in the same glorious cause is notorious. The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people." Gentlemen, give me your attention presently to what they conceive to be a fair representation of the people, when I come to state the resolutions which they transmit! "Whether they concur with us in seeing the necessity of a speedy *Convention* for the purpose of obtaining," (then they use the words), "in a constitutional and legal method"—of the effect of which you will judge presently, for the method will not be the more constitutional and legal for their calling it so, if the method is in fact unconstitutional and illegal—"a redress of those grievances under which we at present labour, and which can only be effectually removed by a full and fair representation of the people of Great Britain. The London Corresponding Society cannot but remind their friends that the present crisis demands all the prudence, unanimity, and vigour, that ever may or can be exerted by men or Britons; nor do they doubt but that manly firmness and consistency will finally, and they believe shortly, terminate in the full accomplishment of all their wishes."



They then resolve, and these resolutions are enclosed: "1st, That dear as justice and liberty are to Britons, yet the value of them is comparatively small without a dependance on their permanency, and there can be no security for the continuance of any rights but in equal laws.

"2d, That equal laws can never be expected but by a full and fair representation of the people; to obtain which, in the way pointed out by the constitution,"—you will see what that is in the third resolution—"has been and is the sole object of this society; for this we are ready to hazard every thing, and never but with our lives will we relinquish an object which involves the happiness, or even the political existence of ourselves and posterity.

"3rd, That it is the decided opinion of this society, that, to secure ourselves from the future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws which have been wrested from us, and of which scarcely a vestige remains."—Gentlemen, you will permit me to call your attention to what the objects were which were to be accomplished—"there ought to be immediately,"—what?—"a convention of the people by delegates deputed for that purpose by the different societies of the friends of freedom." And what are the purposes which this convention, which they themselves represent as a convention of the people, are to execute? Why they, the delegates, forming a convention of the people, are to recall those wise, wholesome laws, which they say have been wrested from them. Before I have done, I shall prove distinctly that this is the meaning of the passage, and the meaning of the passage will be to be collected from the whole of the evidence undoubtedly, not from this particular part of it.

The Constitutional Society, there being present at that time six of the persons mentioned in this indictment, without any deliberation whatever upon a proposition so material as this is—and therefore it must be left to you, upon the whole of the evidence, whether it is fairly to be inferred or not, that this, like a great many other papers of the London Corresponding Society, really came from the Constitutional Society—they immediately ordered that their secretary shall acquaint the London Corresponding Society, that they had received their communication, that they heartily concur with them in the objects they have in view, and that for that view, and for the purpose of a more speedy and effectual co-operation, they invite them to send to this society, next Friday evening, a delegation of some of their members.

Without now going into the particulars of what followed upon this, give me leave to state, that some members of the society, included in this indictment, were named to compose that delegation; that there was named at the same time a Committee of Cor-

respondence of six members of this society; that afterwards the London Corresponding Society formed another committee; that the two committees met; that the two committees meeting, came to a determination that this project of calling a convention of the people should be carried into effect; and then, that a joint committee of co-operation of both societies was formed by resolutions of both.

Having stated what happened upon the 27th of March 1794, and connecting it, as I shall do presently, with the very singular facts, which you will find also happened in that year, you will give me leave, in order to show what the true construction of this act is, as well as to state the grounds upon which the indictment, even without this act, charges a conspiracy to depose the king—you will give me leave to state the transactions of these societies from the month of March 1792.

Gentlemen, in or about the month of March 1792,—whether before that time the London Corresponding Society had existed or not, seems to me to be dubious, and therefore I will make no assertion of that one way or other; but supposing it to have existed, it will be made extremely clear that this society existed at that time without a constitution, as they call it, and was indebted to a gentleman of the name of Tooke for the constitution under which the society was modified, and was indebted, I think, to a gentleman of the name of Vaughan, for his assistance in the composition of the code of its laws.

The first correspondence that I find between the Constitutional Society, and the London Corresponding Society, which I have to state to you, is in the communication of the principles of the Corresponding Society, sent with a letter signed by the prisoner at the bar, which letter is in the following words: "I am ordered by the committee to send to the Society for Constitutional Information in London a copy of our motives for associating, and the resolutions we have come to: we mean to persevere in the cause we have embarked in, that is, to have (if possible) an equal representation of the people of this nation in parliament."

I observe here for a moment that you will not be surprised, when I get to the conclusion of this business, that this cautious language was used in the outset: it will be for you to judge whether a studied caution is fairly imputable to the language. It proceeds thus: "We should be exceedingly happy to enter into a correspondence with that society, if it is not too much presumption in us to expect such an honour; but, as our cause is one, we hope that they will deign to take some notice of us, who are now entering upon a matter of such vast importance."

This is extremely condescending language on the part of Mr. Hardy to the Constitutional Society; it accompanies the resolutions of that society, which resolutions purported to



be signed "Thomas Hardy, secretary." It happened, by an accident not very easy to be accounted for at present, and, notwithstanding which, I shall prove distinctly to you that the resolutions are the act of Mr. Hardy: that this signature—"Thomas Hardy, secretary"—is a signature, as I am instructed, in the hand-writing of Mr. Horne Tooke; that is, Mr. Hardy in the London Corresponding Society, sends the resolutions of the London Corresponding Society (apologizing extremely for the liberty he takes in presuming to send them) to the Constitutional Society, the signature to those resolutions bearing the name of Thomas Hardy in the hand-writing of Mr. Tooke: whether those resolutions were finally settled by that gentleman or not, I do not know; but you will find that there exists a paper which contains, I think, distinct evidence upon the face of it, that those resolutions have been settled, with a good deal of deliberation, by the same gentleman whose hand-writing occurs in the signature which I have been stating.

Gentlemen, before these resolutions were sent, and before I state the matter of them to you, you will allow me to mention that there had been a correspondence between other societies, and the Society for Constitutional Information, of such a nature, as, in order to make this case intelligible, will require some observations from me, and some attention from you; it is the correspondence of other societies, but which correspondence I shall connect in such a manner with the London Corresponding Society, as in fact to make the acts of the other societies the acts of that society.

Upon the 23rd of March 1792, with a view to show you what were the principles of this Constitutional Society, I must state, that they came to a resolution, "That the thanks of this society be given to Mr. Thomas Paine, for his most masterly book intitled, *The Rights of Man*, in which not only the malevolent sophistries of hireling scribblers are detected, and exposed to merited ridicule, but many of the most important and beneficial political truths are stated so irresistibly convincing as to promise the acceleration of that not very distant period, when usurping borough-sellers and profligate borough-buyers shall be deprived of what they impudently dare to call their property—the choice of the representatives of the people. The Constitutional Society cannot help expressing their satisfaction that so valuable a publication has proceeded from a member of that society, and they sincerely hope, that the people of England will give that attention to the subjects discussed in Mr. Paine's treatise, which their manifest importance so justly deserves."

Then they resolved, for what purpose you will judge of, when I come to state to you the subsequent evidence in this business—"That the foregoing resolutions, and all future proceedings of this society, be regularly transmit-

ted by the secretary to all our corresponding constitutional societies in England, Scotland, and France."

Now, gentlemen, as I shall prove what the book was to which this resolution alluded, I shall take the liberty at present to state in a few words to you, as far as they affect the existence of a king in this country, those subjects, which, according to the language of this resolution, the Constitutional Society sincerely hope that the people of England would give attention to, as discussed in Mr. Paine's first book. In that book these doctrines, with respect to Great Britain, are laid down: "a constitution is not a thing in name only, but in fact; it has not an ideal, but a real existence;" and you will find this extremely important, because in the result of the whole evidence that I have to lay before you, it will appear that they did not only distinctly disavow making any application to parliament, but the competence of parliament to do any thing by way of reform, because the country had as yet no constitution formed by the people. Mr. Paine proceeds: "Can Mr. Burke produce the English constitution? If he cannot, we may fairly conclude that no such thing as a constitution exists."

After stating that the septennial bill showed that there was no such thing as a constitution in England, the book states a farther fact, not immaterial, that the bill which Mr. Pitt brought into parliament some years ago to reform parliament, was upon the same erroneous principle, that is, upon the principle that parliament was able to reform itself. With respect to other subjects, to which the attention of the people of England was called, you will find that this book, speaking of modes of government (and this is also extremely material with reference to the construction of what is afterwards to be stated to you), represents that "the two modes of government which prevail in the world are, first, governments by election and representation; secondly, governments by hereditary succession: the former is generally known by the name of republican, the latter by that of monarchy and aristocracy."

He divides government into government by election and representation;—a representation founded upon election, and election founded upon universal suffrage;—and government by hereditary succession. He then states that, from the revolutions of America and France, and the symptoms that have appeared in other countries, it is evident the opinion of the world is changing with respect to government, and that revolutions are not within the progress of political calculation; and that the British government, not existing upon the principles he recommends, is not a government existing upon such principles that a nation ought to submit to it; and that the parliament of the country is not able to form a government, that will exist upon those principles.



Gentlemen, it is a very remarkable circumstance, as it strikes me, that, though various societies had existed in other parts of Great Britain, till about the time of the formation of the London Corresponding Society, none of these societies had asked or invited affiliation with the London Constitutional Society, which you will find they all ask and all invite about March 1792, whether by management or not, I do not pretend to determine, it will be for you to judge; but they all ask and all invite affiliation with the Constitutional and Corresponding Societies, as soon as the latter is formed.

Upon the 16th of March 1792, you will find a resolution of the society for Constitutional Information, which states and returns thanks for a communication from Manchester, signed "Thomas Walker,\* president," and "Samuel Jackson, secretary;" in which "they return the thanks of the society to Mr. Thomas Paine," who appears to have been a member, a visitor of this Constitutional Society, "for the publication of his Second Part of the Rights of Man, combining Principle and Practice." I shall endeavour to state to you in a few words what is the combination of the practice stated in the Second Part of the Rights of Man, with the principle in the First Part, "a work," they say, "of the highest importance to every nation under heaven, but particularly this, as containing excellent and practicable plans for an immediate and considerable reduction of the public expenditure for the prevention of wars, for the extension of our manufactures and commerce, for the education of the young, for the comfortable support of the aged, for the better maintenance of the poor of every description, and, finally, for lessening, greatly, and without delay, the enormous load of taxes, under which this country at present labours.

"That this society congratulate their country at large on the influence which Mr. Paine's publications appear to have had in procuring the repeal of some oppressive taxes in the present session of parliament; and they hope that this adoption of a small part of Mr. Paine's ideas will be followed by the most strenuous exertions to accomplish a complete reform in the present inadequate state of the representation of the people, and that the other great plans of public benefit, which Mr. Paine has so powerfully recommended, will be speedily carried into effect."

Now, gentlemen, as Mr. Paine's plan for the remedy of the present inadequate state of the representation of the people was alluded to, and this book was alluded to, which combined "principle" and "practice," and as it is stated that the other great plans of public benefit, which he had so powerfully recommended, would be speedily carried into effect, it will be necessary to show you, from this letter, what were those plans for the remedy

of the inadequate state of the representation of the people, and other plans of public benefit, which this society, receiving the thanks of the Constitutional Society, hoped would be carried into effect.

Gentlemen, I do not take up your time in stating the passages to you, but represent to you the substance of that book; that it is a book distinctly and clearly recommending the deposition of the king: if the passages in that book do not prove that assertion, there is no evidence that can prove any assertion: it is a book, moreover, which not only puts the king out of the system of the government of the country, but, according to which, if a perfect representation of the people is to be formed, it is to be formed not by a parliament existing in a country—in which that gentleman states that no constitution exists—not by that parliament, which he states to be totally and absolutely inadequate to the great work of forming the constitution upon the rights of man and equal active citizenship, which he recommends: it is a work, which calls upon the people of England to do themselves justice in another way of proceeding, and to form a constitution for themselves before they can have any government, which is to exist upon true principles. There is then, I say, in the beginning of this thing, a developement of these purposes; and I say, beyond that, that if I understand the effect of evidence at all, I shall satisfy you that those, who voted this resolution of thanks, knew that the principles there referred to, were principles that would have this operation, and meant that they should have this effect.

The next thing I have to state, which I shall not go through very particularly, is contained in a resolution of the Constitutional Society (some of the members of which, I shall prove to you, began to leave the society about this time, stating distinctly that they understood its principles to be now different from the principles it had formerly acted upon, and to be such principles as I have stated) entered into upon the 23rd of March 1792. They resolved that another communication, which is from Sheffield, should be published in the Morning Chronicle, and in several other newspapers, which they mention.

With respect to the communication from Sheffield (and it is a remarkable thing that, from Sheffield, and from Norwich, they should be writing, on the same day, for the same purpose—that the societies of Sheffield and Norwich might be affiliated with the London Constitutional Society, and the Sheffield people were so anxious about it, if it were their own act and deed, that they wrote more than one letter in order to ask it), it is to this effect:

"It is now about four months since this society first formed itself into a regular body; they were then but very few in number; the enclosed will inform you of their increase,

\* See his case, *antè*, Vol. 23, p. 1055.



and, which is most probable, will soon become very numerous; and not only this large and populous town, but the whole neighbourhood for many miles round about, have an attentive eye upon us: most of the towns and villages indeed are forming themselves into similar associations, and strictly adhere to the mode of copying after us; you will easily conceive the necessity for the leading members of this body to pay strict attention to good order and regularity, and the need we have of consulting and communicating with those who are sincere friends and able advocates for the same cause; for these reasons we took the liberty to write to Mr. Horne Tooke, that worthy friend and patriot for the rights of the people, informing him of our earnest desire of entering into connexion with the society of the same denomination of ours in London; his very obliging and affectionate answer favours us with your address; in consequence, we have taken the liberty herewith to transmit to you some resolves, which were passed at our last meetings by the whole body, and the committee was charged with the dispatch of printing and forwarding them to you accordingly, for the purpose of submitting them to the consideration of your society, and to make use of them as they think most prudent. You will also notice the Belpar address: they applied to us about two months ago for instructions as to our mode of conducting, &c. had not then formed themselves into any regular association. Belpar is nearly thirty miles from this place, in Derbyshire, and eight or ten miles from Derby.

"If the society for Constitutional Information in London should vouchsafe so far to notice us, as to enter into a connexion and correspondence with us, it cannot fail of promoting honour, and adding strength to our feeble endeavours, and to the common cause, which is the entire motive we have in view."

They then, upon the 14th of March, 1792, knowing that there was a connexion between the London Constitutional and London Corresponding Society (and that they should know that fact on the 14th of March, which is sixteen days before the 30th, when Mr. Hardy sent to Mr. Tooke the resolutions which were signed in the name of Mr. Hardy by Mr. Tooke, as a communication to him that there was such a body as the London Corresponding Society, is a circumstance that affords observation); they then add, "We have taken the liberty of enclosing a parcel for Mr. Hardy, in answer to a letter from him to this society, requesting some information concerning our method of conducting the business we had embarked in, &c. also informing us there are in London a number of mechanics, shapkeepers, &c. forming themselves into a society on the broad basis of the rights of man. You will be so obliging as to let the packet remain with you until he call for it, as by this post I have wrote him thereof. We have given him our manner of

proceeding from our setting out to this time, and hope it may be of some use. The improvement we are about to adopt is certainly the best for managing large bodies, as in great and populous towns, viz. dividing them into small bodies or meetings of ten persons each, and these ten to appoint a delegate; ten of these delegates form another meeting and so on, delegating from one to another, till at last they are reduced to a proper number for constituting the committee or grand council."

There is another letter of the same date, which has a remarkable circumstance about it. It is addressed to the Constitutional Society. Gentlemen, it states that "this society," that is, the same Sheffield Society, "feeling, as they do, the grievous effects of the present state defects and abuse of our country,"—(the word originally in this letter was *constitution*, but the word *constitution*, not being that which was liked, by some very odd accident in the letter from Sheffield, the word *country*, in the hand-writing of Mr. Tooke, is substituted for *constitution*)—"the great and heavy oppressions, which the common people labour under, as the natural consequence of that corruption, and at the time being sensible to a degree of certainty, that the public minds and the general sentiments of the people are determined to obtain a radical reform of the country," you will mark these words, "as soon as prudence and discretion will permit, believes it their duty to make use of every prudent means, as far as their abilities can be extended, to obtain so salutary and desirable an object, as a thorough reformation of our country," the word *country* being again in the hand-writing of Mr. Tooke, "established upon that system, which is consistent with the rights of man,"—for these reasons they state their forming into clubs, as the former letter did, and they conclude thus—"that being thus strengthened, this society may be better enabled to govern itself with more propriety, and to render assistance to their fellow-citizens in this neighbourhood, and in parts more remote, that they in their turn may extend useful knowledge still farther from town to village, and from village to town, until the whole nation be sufficiently enlightened and united in the same cause, which cannot fail of being the case, wherever the most excellent works of Mr. Thomas Paine find residence."

Those works are the works which have held an hereditary monarchy, however limited, to be inconsistent with the rights of man; which have held the constitution of parliament in this country to be inconsistent with the rights of man; and those works, upon the principles of that inconsistency, have held even the parliament itself incompetent to reform any abuses in government.

The paper they transmit states as a fact, that the number of members at Sheffield were, in March 1792, two thousand. That



the Constitutional Society in London and the Constitutional Society at Sheffield, thus numerous, should have had no connexion by affiliation till the 14th of March, 1792, though, on that 14th of March, 1792, it appears that the Sheffield Society had had correspondence, and had become connected with the London Corresponding Society, prior to the London Corresponding Society sending the paper I before stated to the Constitutional Society, is somewhat remarkable.

The paper proceeds thus: "This society, composed chiefly of the manufacturers of Sheffield, began about four months ago, and is already increased to nearly two thousand members." In this letter, dated March 14, 1792, they state it to have amounted to two thousand, exclusive of neighbouring towns and villages, who were forming themselves into similar societies. They then state the principles upon which the societies are formed, and that "they have derived more true knowledge from the two works of Mr. Thomas Paine, intitled *Rights of Man*, Part the First and Second, than from any other author on the subject. The practice as well as the principle of government is laid down in those works, in a manner so clear and irresistibly convincing, that this society do hereby resolve to give their thanks to Mr. Paine for his two said publications intitled *Rights of Man*."

Gentlemen, I beg your pardon for addressing you so much at length on this case, but I feel it my bounden duty to the public, to you, and to the prisoner at the bar, to warn you fully of the whole of it. There is nothing which, I am sure, would more certainly happen, than that I should go, not only out of this court, but to my grave, with pain, if I should have stated to you in a proceeding of this nature the doctrines of Mr. Paine, otherwise than as I think of them. If that is meant to be intimated, that we may have no dispute about them, and that we may not misunderstand what is that principle, and that practice, to which the passage I have now read alludes, you will allow me to read a few passages out of this second part of the *Rights of Man*, said to contain both the principle and practice of government, and then I ask you what those must have intended, with respect to the government of this country, who meant to take any step in order to make a change in it, in such a way as the principle and practice laid down in that book would require them to make it, recollecting that the government of this country is a government consisting in a king, having an hereditary crown, together with Lords and Commons, forming a parliament according to the laws and constitution of England.

Now, that author, in the first place, expresses a great deal of what possibly may be differently thought of by other persons, but what I cannot call good-will to the people of England—for he says, "that during the time of the American war. he was strongly im-

pressed with the idea, that if he could get over to England without being known, and only remain in safety till he could get out a publication, that he could open the eyes of the country with respect to the madness and stupidity of its government."

Let us see in what that madness consisted according to him: having stated in his former book that a government ought to exist in no country, but according to the principles of the rights of man—he repeats again the distinction he had stated in his former book, between what he calls the two systems: he says, "that the one now called the old is hereditary, either in whole or in part," which is that of England; and the new is entirely representative,—that is, a government consisting of a Commons House, if you choose so to call it.—We know, that in 1649 the ruling government in this country was called a parliament, called a Commons House, and it was then enacted, that if any persons should attempt to put a king into this country, they should be deemed traitors, with much less of an overt act manifested than is necessary at this day. Again, it is stated, "an heritable crown, or an heritable throne, or by whatever fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government, is to inherit the people, as if they were flocks and herds."

"Hereditary succession is a burlesque upon monarchy. It puts it in the most ridiculous light by presenting it as an office, which any child or idiot may fill. It requires some talents to be a common mechanic, but to be a king requires only the animal figure of man, a sort of breathing automaton. This sort of superstition may last a few years more, but it cannot long resist the awakened reason and interest of man;" then, "in whatever manner the separate parts of a constitution may be arranged, there is one general principle, that distinguishes freedom from slavery, which is, that all hereditary government over a people is to them a species of slavery, and representative government is freedom;" then, speaking of the crown of England, that crown, in which, according to the law and constitution of this country, according to its principle and practice, is vested the sovereignty in the manner in which I have stated it, he says, "having thus glanced at some of the defects of the two Houses of Parliament, I proceed to what is called the crown, upon which I shall be very concise."

"It signifies a nominal office of a million sterling a year."—Again, gentlemen, give me leave to observe that this, which has been so often detailed for the worst of purposes, cannot but be known to those who know any thing of the constitution of the country—(I charge nobody else—those who know any thing of the constitution—I charge not those who do not know it)—to be in substance a gross misrepresentation—"the business of



which consists in receiving the money. Whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every minister acts upon the same idea that Mr. Burke writes, namely, that the people must be hoodwinked, and held in superstitious ignorance by some bugbear or other; and what is called the crown answers this purpose, and therefore it answers all the purposes to be expected from it."

Gentlemen, in another part of this work, you will find that Mr. Paine was very well aware of what these Sheffield correspondents were aware of, if they were the composers of the letter to which I have alluded; that the principles, laid down in the constitution of France, which these two books were to recommend, and the principles, stated in Paine's first book, were absolutely inconsistent with the constitution itself of France, as it existed at that moment; and Paine prophetically (he would not have had common sense if he had stated it otherwise), even in the beginning of 1792, when he publishes this book, foretells that the government of France, with a king a part of it, upon his principles, and the principles professed by the constitution of France, could not exist: he foresaw that in August 1792; and I will prove, that those persons, who were thus approving the principles and practice of Paine, knew that a king could not exist consistently with those principles; and they adopted them therefore, ~~we~~ insist, in order that a king should not exist in this country.

Gentlemen, these resolutions being received perhaps from Sheffield, a step is taken upon them in the Constitutional Society, and a step, which gives an authenticity to the book I have in my hand, namely, the book of their proceedings, which is remarkable enough; for in this society's book there are these resolutions, which are supposed to be received from Sheffield, watered to the book; and then with a view of a publication of them, in the *Morning Chronicle*, *World*, *Post*, *Times*, *Argus*, *English Chronicle*, and *General Evening Post*, for the purpose of circulating the principles of Mr. Thomas Paine, and for the purpose of circulating the representation, which is made in these resolutions, there is first of all, in Mr. Tooke's hand-writing,—*"Society for Constitutional Information, London, March 23rd, 1792. This Society having received the following and other communications from Sheffield, viz."*—his hand-writing—then, *"March 14th, 1792,"*—his hand-writing—then the words *"two thousand members,"* scored under, I cannot say by him, but by somebody, I suppose for the purpose of being printed in italics; and there is at the conclusion of this minute in the hand-writing of Mr. Tooke,

*"That the secretary do return the thanks of this Society to the Society for Constitutional Information established at Sheffield, and that he express to them with what friendship and*

*affection this society embraces them, as brothers and fellow-labourers in the same cause;"*—of principle and practice I suppose. *"That he do assure them of our entire concurrence with their opinion, viz. that the people of this country are not, as Mr. Burke terms them, swine;"*—the writer of this must have known very well the sense in which an improper word, I readily admit, was used by the person to whom he now alludes,—but rational beings, better qualified to separate truth from error than himself, possessing more honesty, and less craft.

*"Resolved, that this society will on Friday next, March 31st, ballot for the twelve associated members recommended by the Sheffield committee, and approved at this meeting."*—

Then this paper is thus ordered to be published for the primary purpose, I submit, of recommending that principle [and practice, which makes the Sheffield people "fellow-labourers" with the Constitutional Society in the same cause of principle and practice, and which, both in the principle and practice, was aimed at the destruction of the government of the country;—of that hereditary monarchy, which Paine represents as tyranny;—of that limited monarchy, which he represents as tyranny; and for the purpose of recommending that *representative government*, which, I say, is the true sense of all the words which these people use:—but this is not all—you will observe, that this paper of resolutions was accompanied by a letter, in which letter there is also the hand-writing of Mr. Tooke, and that the paper states that two thousand members belong to the society at Sheffield, and that this number is to be stated by publication, as the number of persons belonging to the society at Sheffield. In another publication they are stated to amount to two thousand four hundred—in November 1793, it is stated, that they were many thousands: now you will see from the witnesses, some of these correspondents, these able men, who are so little corrupt, in the course of examination—you will see, unless I am mistaken in the effect of the evidence I have to offer, the truth of an observation that I made, that mankind were to be misled, and societies were to be invited to be created, by the misrepresentation of numbers, and by giving to existing societies a colour in that respect, which did not belong to them; for to this hour, after all the pains which have been taken with the Sheffield people (and what pains you will hear), those persons, who were two thousand, have yet arrived to but about six hundred.

Gentlemen, this society, having in this letter expressed an inclination that they should have some associated members in the Constitutional Society, that affiliation begins in the Constitutional Society in London, which I have alluded to; and accordingly you will find, that upon the 31st of March, twelve persons were ballotted for as from the Shef-



field Society, and became associated members of this society; you observe, that this letter had stated from Sheffield that they had received before a communication from Mr. Tooke, and Mr. Tooke afterwards writes a draught of a letter which is sent to them, in which he states, "I am directed by the Society for Constitutional Information to acknowledge the receipt of your letter, and to express to you that very great pleasure and satisfaction which they received from your communication; the society have unanimously elected twelve" (here follow the names of the persons), "as associated members of this society."—These persons being certainly, gentlemen, extremely respectable men as subjects of Great Britain, but at the same time men, that one wonders a little should, upon such a purpose as this, without a little more instruction being infused into their minds, have been associated as members into this society—"and we flatter ourselves, that when any business or other occasion shall lead any of those gentlemen to London, they will be kind enough to honour the society by their presence, and give us an opportunity of cementing that friendship between us, which all the zealous friends of public freedom and the happiness of mankind ought to feel and exercise towards each other.

"P. S. I am desired, by Mr. Horne Tooke, to request each of the associated members to honour him by the acceptance of the books which accompany this letter;"—which were, I apprehend it appears, so many parts of the Rights of Man.

Gentlemen, upon the 24th of March 1792, a paper appears to have been sent to the Constitutional Society from a nest of societies, the United Constitutional Societies at Norwich: this was the 24th of March 1792, and it appears, as I am instructed, that the words "24th March 1792," are also in the handwriting of Mr. Tooke.

"At a meeting of the delegates of the United Constitutional Societies, held the 24th March 1799, at the Wheel of Fortune, St. Edmund's in the city of Norwich, it was unanimously agreed to communicate to the gentlemen of the London Society for Constitutional Information, the following Resolutions:

"1st. We are happy to see the success of the Sheffield Society for Constitutional Reform, and approve of the delegations, which you and they have made in order to form a plan of general information. We humbly beg that you would grant to us the same favour; and it is our wish, that all the societies of a similar kind in England were only as so many members strongly and indissolubly united in one political body.

"2dly. We believe that instructing the people in political knowledge, and in their natural and inherent rights as men, is the only effectual way to obtain the grand object of reform, for men need only be made acquainted with the abuses of government, and

they will readily join in every lawful means to obtain redress; we have the pleasure to inform you that our societies consist of some hundreds, and new societies are frequently forming, which, by delegates, preserve a mutual intercourse with each other, for mutual instruction and information; and the greatest care has been taken to preserve order and regularity at our meetings, to convince the world that riot and disorder are no parts of our political creed.

"3dly. We believe, and are firmly persuaded" (and if any man thought so, he had a right to say so if he pleased), "that Mr. Burke, the once friend of liberty, has traduced the greatest and most glorious revolution ever recorded in the annals of history; we thank Mr. Burke for the political discussion provoked and by which he has opened unto us the dawn of a glorious day.

"4thly. To Mr. Thomas Paine our thanks are especially due for the First and Second parts of the Rights of Man, and we sincerely wish that he may live to see his labours"—that is, the destruction of hereditary government and limited monarchy, and consequently the government of England—"crowned with success in the general diffusion of liberty and happiness among mankind."

Gentlemen this letter does not appear (though the words, the 24th of March, are in the hand-writing of Mr. Tooke) to have been read in the Constitutional Society till the 14th of May 1792, when they read this letter, and also another, which I will now state to you, from the society called the Norwich Revolution Society.

"The Norwich Revolution Society wishes to open a communication with you at this time, when corruption has acquired a publicity in the senate, which exacts from the honour of the British nation renewed exertions for parliamentary reform—without prejudging the probable event"—(this is a material passage, when you connect it with what is found in other subsequent papers)—"even of such an application to the legislature, the society is willing to circulate the information, and to co-operate in the measures, that may seem best adapted to further so desirable and so important an end; it is willing to hope the redress of every existing grievance at the hands of a government resulting from an extraordinary convocation in 1688—an extraordinary convention of all, who had at any preceding time been elected representatives of the people, assisted by the hereditary counsellors of the nation, and a peculiar deputation from the metropolis; which national constituting assembly cashiered for misconduct a king of the house of Stuart."

The opinions and principles of this society are best explained by an appeal to their literary representative—"To James Mackintosh,\*

\* In 1803 appointed Recorder of Bombay, on which occasion he received the honour of knighthood.



author of the *Vindiciæ Gallicæ*, the society offers the tribute of its approbation and gratitude for the knowledge, the eloquence, and the philosophical spirit, with which he has explained, defended, and commented on the revolution of France; it hesitates to assent to this only of his opinions—that there are but two interests in society, those of the rich and those of the poor—if so, what chance have the latter? Surely the interests of all the industrious, from the richest merchant to the poorest mechanic, are, in every community the same, to lessen the numbers of the unproductive, to whose maintenance they contribute, and to do away such institutions and imposts as abridge the means of maintenance, by resisting the demand for labour, or by sharing in reward: as the means most conducive to this comprehensive end, the Norwich Revolution Society desires an equitable representation of the people.

"The Rights of Man by Thomas Paine, and the advice to the privileged orders by Joel Barlow," a book which I shall give in evidence, and therefore shall state some passages from presently, "have also been read with attention and circulated with avidity."—Now Barlow's book you will find is, in the plainest and most unequivocal language, as I understand it, an exhortation to all people to get rid of kingly government, and addressed more particularly to the two societies I have mentioned, as containing the substance of the business, in which they are interested, as you will see when I come to state the transactions of October 1792.

"The Rights of Man by Thomas Paine, and the advice to the privileged orders by Joel Barlow, have also been read with attention and circulated with avidity; they point out with clearness most of the abuses which have accumulated under the British government; they attack with energy most of the prejudices which have tended to perpetuate them."

Now, how any man living could thank these people without informing them that, if they really meant well to their country, they must be ignorant in the extreme, or something worse, if they could reconcile either the *Rights of Man* or Joel Barlow's book on the Privileged Orders with the principles of that convention in 1689, which is the foundation of the liberties of this country, is to me quite inexplicable. But, after stating the constitution of this country, in a letter fabricated with great art, there follow the twelve names of the intended associated members from Norwich; and the description of some of these twelve happens also, from a singular circumstance, to be in the hand-writing of Mr. Tooke. Then this society returns thanks to the societies at Sheffield and Norwich for these communications.

The resolutions of the London Corresponding Society, which I told you were sent on the 20th of March, are to this effect:

"Resolved, That every individual has a right

to share in the government of that society of which he is a member, unless incapacitated.

"Resolved, That nothing but non-age, or privation of reason, or an offence against the general rules of society, can incapacitate him.

"Resolved, That it is not less the right, than the duty of every citizen, to keep a watchful eye on the government of this country, that the laws, by being multiplied, do not degenerate into oppression, and that those who are intrusted with the government do not substitute private interest for public advantage.

"Resolved, That the people of Great Britain are not properly represented in parliament.

"Resolved, That in consequence of a partial, unequal, and inadequate representation, together with the corrupt method in which representatives are elected, oppressive taxes, unjust laws, restrictions of liberty, and wasting of the public money, have ensued.

"Resolved, That the only remedy to those evils is, a fair and impartial representation of the people in parliament.

"Resolved, That a fair and impartial representation can never take place until partial privileges are abolished, and the strong temptations held out to electors afford a presumptive proof, that the representatives of this country seldom procure a seat in parliament from the unbought suffrages of a free people.

"Resolved, That this society do express their abhorrence of tumult and violence: and that, as they aim at reform not anarchy, reason, firmness, and unanimity be the only arms they employ, or persuade their fellow-citizens to exert against abuse of power."

Gentlemen, in this, which I have now read to you, I am willing, if you please, that you should construe every word of it, though certainly it is not consistent with the principles of British government, upon this principle, that those, who sent that paper to the Constitutional Society, if it even was sent there at all, really understood it to be consistent with the principles of the British government; and I claim no credit for the veracity with which I assert, that this conspiracy has existed, unless I show you by subsequent acts of this society, that at this moment they meant what Mr. Paine says, in principle and practice, is the only rational thing—a *representative government*; the direct contrary of the government which is established here.

You will find, by what I shall lay before you, that there was a society in Southwark.

—To this society the London Corresponding Society, in a letter which I have to read to you presently, stated their adoption of all Mr. Paine's principles, with a view, as I think, to the practice recommended in his works: this society also received the thanks of the Constitutional Society for a communication which I am about to state to you; and the London Corresponding Society afterwards entered, as it seems to me, into a combination with them, upon the principles stated in that communi-



cation: I say it is impossible, attending to these facts, for any man who reasons fairly, to doubt that the principle of the London Corresponding Society and of the Constitutional Society was, to form a *representative government*, in this country.

A declaration from a society in Southwark was read:—"Resolved, that the thanks of this society be given to the Southwark society for the following communication, and that it be published in the newspapers:

"April 19, 1792, at the Three Tuns tavern, Southwark Resolved, That we do now form ourselves into a society for the diffusion of political knowledge.

"Resolved, That the society be denominated the Friends of the People.

"Resolved, That the following be the declaration of this society,"—which is the preamble to the constitution in France, in the year 1791.

"Considering that ignorance, forgetfulness, or contempt of the rights of men, are the sole causes of public grievances, and the corruption of government, this society, formed for the purpose of investigating and asserting those rights, and of uniting our efforts with others of our fellow-citizens for correcting national abuses, and restraining unnecessary and exorbitant taxation, do hereby declare—

"First, That the great end of civil society is general happiness.

"Secondly, That no form of government is good, any farther than it secures that object.

"Thirdly, That all civil and political authority is derived from the people"—that people, of whom they were afterwards to form a convention.

"Fourthly, That equal active citizenship is the unalienable right of all men; minors, criminals, and insane persons excepted."

Now will my friend dispute with me what these principles, according to the ideas of those who state them, lead to?

"Fifthly, That the exercise of that right, in appointing an *adequate representative government*,"—that is, the government, which Mr. Paine tells you, rejects every thing that is hereditary—is what;—"the wisest device of human policy"—not only that, but it is—"the only security of national freedom."

Then, is not that a direct assertion, that the British government exists upon principles not reconcilable with the principles of a government that can have any security, or such a security as it ought to have for general freedom?

The Society for Constitutional Information return their thanks upon that also, and then those persons who write this letter say farther in the same paper—

"We call upon our fellow-citizens, of all descriptions, to institute societies for the same great purpose"—that is the purpose of introducing representative government—"and we recommend a general correspondence with each other"—but attached and rivetted to the

Constitutional Society—"and with the Society for Constitutional Information in London, as the best means of cementing the common union, and of directing with greater energy our united efforts to the same common objects."

What were the objects of this society? You will find that the objects of this society were the objects of the Constitutional Society; and you will find presently that they were the objects of the Corresponding Society:—The Constitutional Society resolved, "that every society, desiring an union, or correspondence with this, and which doth not profess any principles destructive to truth or justice"—now this gives occasion for the first remark I have to make upon language—"or subversive to the liberties of our country: but which, on the contrary, seeks, as we do, the removal of corruption from the legislature and abuses from the government, ought to be, and we hope will be embraced with the most brotherly affection and patriotic friendship by this society."

I observe upon this, that all this handsome language is perfectly consistent with this principle, in the minds of those who write it, and they do not venture to explain it, because I think they durst not explain it,—with this idea in their minds, that those principles were destructive of truth and justice were subversive to the liberties of the country, which were principles in opposition to those of Mr. Paine; and that all practice, that was in opposition to the practice he recommends, was subversive to the liberties of the country.

I come now to a circumstance or two, which lead me to state shortly what will be proved to be the original constitution of the London Corresponding Society—the plan (the efficacy of which had been tried in France, and which men, who came from that country, were probably well acquainted with)—was, to unite, first small bodies of men—as soon as they came to a greater number, to divide them into smaller parties, and so to spread themselves by degrees (as you will find in the letters, was the purpose of these societies), from town to town, from village to village, from hamlet to hamlet, till, as they explain it, there should not be an unenlightened man in the country.

The constitution of the London Corresponding Society was formed upon this principle; it will appear from the written evidence which will be produced to you, that a gentleman of the name, I think of Felix Vaughan, was appointed a delegate upon the 30th of April, for No. 63; that Mr Hardy consulted him; and, being also appointed to form a constitutional code of laws for the London Corresponding Society, Mr. Hardy consulted him upon that subject. The preamble to the resolutions which formed their constitution was this: "Whereas it is notorious that very numerous burthensome and unnecessary taxes are laid on the persons and families of us and

others the industrious inhabitants of Great Britain, an exceedingly great majority of whom are, notwithstanding, excluded from all representation in parliament; and as upon inquiry into the cause of this grievance, which is at once an obstruction to our industry, and a diminution of our property, we find that the constitution of our country, which was purchased for us at the expense of the lives of our ancestors, has by the violence and intrigue of criminal and designing men, been injured and undermined in its most essential and important parts, but particularly in the House of Commons, where the whole of the supposed representation of the people is neither more nor less than an usurped power"—I hope, gentlemen, it cannot be required that I should contend against such an assertion in this place, if a court of law in this country has not lost all the character that belongs to law; how that usurped power was ever to be employed as an organ in the constitution of that new representative body that this society aimed at, consistent with their own principles, remains to this moment unintelligible to me—"arising either from abuses in the mode of election and duration of parliaments, or from a corrupt property in certain decayed corporations, by means of which the liberties of this nation are basely bartered away from the bribed profit of the members of parliament: and as it farther appears to us, that until this source of corruption shall be cleansed by the determination, perseverance, firmness, and union of the people at large, we are robbed of the inheritance so acquired for us by our forefathers, and that our taxes, instead of being lessened, will go on increasing, as they will furnish more bribes, places, and pensions, to ministers and members of parliament: we therefore, having resolved to unite ourselves into one firm and permanent body, for the purpose of informing ourselves and others of the exact state of the present parliamentary representation, for obtaining a peaceful but adequate remedy to this intolerable grievance, and for corresponding and co-operating with other societies, united for the same objects, have unanimously adopted the following regulations for the internal order and government of our society." They then state their regulations; and their constitution having been thus formed, they publish it afterwards in the month of May. What observations they state to the public upon it in the month of May I shall have occasion to represent presently; you will see the manner of proceeding with respect to the election of their delegates, by the production of a particular paper. On the 13th of April, a person, whom you have heard much of, Mr. Margat,\* is appointed a delegate; upon the 30th of April, Mr. Vaughan was, as far as the paper is evidence of the fact, appointed delegate

for No. 63; Mr. Richter, a party named in this indictment, and Mr. Martin, another party, against whom the grand jury have found a bill, but who is not named in this indictment, are also appointed delegates. Mr. Hardy is not only secretary, but he is appointed, upon the 13th of April a delegate; and there is a choice of delegates for the whole of these bodies. You will find they afterwards met from time to time, to pursue the great purposes of their incorporation, at an alehouse, I think, the Bell in Exeter street, in the Strand, from which place some of the correspondence I am about to state to you comes.

Gentlemen, the Society for Constitutional Information, having affiliated several societies very suddenly with themselves—whether Mr. Paine remained in this country or not I cannot tell—they felt an inclination to affiliate with another society, which is to be, as it appears to me, in justice to them, very strongly distinguished indeed with respect to the principles upon which they acted, I mean the society calling itself the Friends of the People, meeting at Free Masons' Tavern: with what prudence or discretion that society formed itself is a subject which I shall not discuss, but it is a most important fact, that in the first attempt, which the Society for Constitutional Information made (and it ought to be known in justice to the Friends of the People), the first attempt they made to affiliate themselves with the Society of the Friends of the People, that society, in correspondence that will be read to you, acts as some individual members of the Constitutional Society had done; they say—"No, we discover your design from what you are doing; you tell us, from your approbation of resolutions entered into at Manchester, signed by Mr. Walker and Mr. Jackson, that you approve the sort of schemes Mr. Paine has set forth;—that you approve projects of giving, in loose and indefinite terms, the full extent of what you call the rights of the people, to the people: that is not our intent; we think,"—and, gentlemen, many a man may very honestly think it, but he must go about the execution of his thoughts in a legal way, if he does so think, if he means to reduce his thoughts into practice—"we think that parliament is not adequate to all the ends for which it is instituted as a body, through which is to be spoken, as far as the constitution requires, the will of the people; but we do not mean what you mean; we mean to preserve the forms of the constitution, which it is clear you do not; we mean," says Lord John Russell, in a letter, which will be read, "to preserve the forms of the constitution, and therefore must decline all correspondence with you."

Gentlemen, it happens—it belongs to societies of this nature, and I desire to be understood, therefore, in stating it, only as stating a circumstance, which in its nature does belong to those societies, and which will

\* See his case in this Collection, Vol. 23, p. 293.



happen—that it was thought necessary, for the great purpose of doing that which was eventually to be done, that a society, which had rejected co-operation with the Society for Constitutional Information, should still be kept, for the purposes of the Society for Constitutional Information, in fact and effect corresponding and connected with it. Accordingly you will find that this Society of the Friends of the People, rejecting upon principle the plan which they thought abandoned the forms of the constitution, that this society retained, in its own bosom, according to the account I have of it, many members, who happened to belong to the other society, and the work of both societies went on by the same instruments: they were thus therefore connected in fact, though they did not choose as a body to have one society in connexion with the other.

Gentlemen, having stated that, you will allow me now to mention, though it is a little out of date, but it also connects itself with and illustrates the last observations I made, that the society at Sheffield, which had connected itself by affiliation with the Society for Constitutional Information, and you will also find with the London Corresponding Society, had received, about the 24th of May, intelligence from the Society of the Friends of the People, which stated to them very correctly what their objects were, the means by which they meant to accomplish them, and the attention which they meant to pay to the forms of the constitution. You will now see what the Society for Constitutional Information understood to be the objects of the Sheffield Society, and what the Sheffield Society understood to be the objects of the Society for Constitutional Information. The Sheffield Society (though I do not know that they kept their word) distinctly disavowed, in a letter of the 26th May, to the Constitutional Society, having any thing more to do with that society—called the Friends of the People—which meant to preserve the forms of the constitution; represented that they had totally misunderstood them, and would have nothing more to do with them, but to the extent, to which the Society for Constitutional Information permitted.

You will find in a letter from Sheffield, of the 26th of May, and this corrected by Mr. Tooke, that they thank the Constitutional Society for accepting their members. They then state that they had increased to two thousand four hundred.—“On Saturday last, the 19th instant, we received a packet of printed addresses, resolutions, &c. from the Society (Free Masons’ Tavern), which, on mature consideration, we find ourselves not so well reconciled to the ideas they convey to us as we could wish, if they had appeared in a different point of view; nor do they afford us such a flattering prospect, as we were apprehensive might be expected from an association of so respectable a body, under the high

denomination of the Friends of the People. In our opinion, their answer of the 12th instant to your letter of the 27th ultimo is no ways compatible with that appellation; from the known respectability of many names which appear amongst them, we had entertained great hopes of their real use,”—mark the words, gentlemen—“in obtaining a thorough reform”—now mind what that reform is—“in obtaining a thorough reform upon the principles of the rights of man,”—that is, a representative government, rejecting the king, and rejecting every other part of the constitution of this country, except so far as it was consistent (indeed it is not consistent with any part of them) with the principles of the rights of man—“which can never be accomplished until every man enjoys his lawful and just privileges.

“Previous to the reception of this packet, we did communicate to them by letter the pleasing hopes it reflected on us on looking forward, viewing such respectable characters signaling themselves in support of the people’s rights, agreeable to the above principles, and the denomination by which they have entitled themselves, &c. In due course they would receive our letter last Thursday seven-night; and in consequence, we apprehend the packet was forwarded to us on the same day, but without any written communication. We shall not attempt any further communication with them, until we are favoured with your sentiments upon the subject, or until matters of doubt which are at present entertained be removed.” Then there is a note, which shows the necessity of this fostering care of the Constitutional Society: they say—“Birmingham in particular claims all the assistance from established societies, which possibly can be administered.”

Having written to the Constitutional Society upon the 26th of May, they find it expedient, for the same purpose, to trouble their correspondents of the London Corresponding Society: “We were favoured with your very affectionate letter of the 7th ultimo, and communication, in due course; and I am directed by this society to inform you, that it is with infinite satisfaction they receive the information, that your firm and laudable endeavours are directed to that effectual and necessary purpose, of opening and enlightening the public mind, and disseminating useful knowledge amongst the general mass of the people: by an orderly proceeding in a firm pursuit of truth and equity, there cannot be a doubt but that our joint endeavours will in due time be crowned with success.

“As brothers and fellow-labourers we congratulate you on the rapid progress of useful and real knowledge in the various parts of this nation, which sufficiently indicates that the time cannot be far distant when truth will be more predominant, equity more generally administered, and sound wisdom more universally sought after. When pride, ambition,



and ignorance give place to these virtues, when oppression ceases and charity abounds, when men in principle and practice verify the necessity and advantage of doing to others as they wish to be done by; then, and not till then, can any people or nation be said to be happy.

"We have herewith enclosed our rules, &c. Should have written you much sooner, but on account of a disappointment in the printing of our articles, &c.

"Our numbers continue to increase,—both here, and in the adjacent towns and villages; a general concurrence prevails, as to the necessity of the business, and the measures adopted by this society for obtaining our object. It will be of great importance to the cause we are engaged in, that a more frequent communication be maintained amongst all the similar institutions; for which reason we beg the favour of your correspondence at every convenient opportunity, which will be highly obliging to this society, who in return pledge themselves to observe the same rule."

Gentlemen, having stated to you now what it was that the Society of the Friends of the People discovered to be the object of the Constitutional Society, and I agreeing with them in thinking their discovery upon that subject was accurate and right, you will find it necessary to go back, and to proceed in the order of time to the 7th of April. Mr. Hardy sent from the London Corresponding Society a copy of their resolutions to the Society for Constitutional Information, which was established at Manchester, and desired also to have correspondence with them, as they were all engaged in one common cause; that Manchester Society, you will recollect, which hoped that the other great benefits which Mr. Paine had stated, would be carried into effect.

He says, "We began this society about ten weeks ago; it is composed chiefly of tradesmen and shopkeepers. The enclosed will inform you of the principles we set out upon.—When we first associated, we flattered ourselves that no other societies in the nation were formed upon the same principles—but in two or three weeks afterwards we were most agreeably informed of our brethren at Sheffield having taken the lead in so glorious a cause—we immediately wrote to them, and were answered without delay, expressing a wish to unite with us, for promoting the ends we have in view, and we are assured of success, by persevering prudently, and with unanimity."

Upon the 18th of April 1792, in furtherance of this plan, you will find Mr. Hardy writes a letter to the president of the society in the Borough.—Now that is the society, the principles of which I have so distinctly stated before, as leading to *representative government*, as the only security for liberty in the country.—It appears that their declarations had also been sent to the London Corresponding

Society; and Mr. Hardy, upon the 18th of April 1792, says "I am ordered by the London Corresponding Society, to send a copy of their resolutions to the society that meets at the Three Tuns tavern, in the Borough, established on purpose for restoring the rights of election, or in other words, to obtain an equal representation of the people of this nation in parliament."

Now they had avowed, and avowed in their declaration, that their object of a representation of the people in parliament was precisely that more extended one in its principle, which obtained at the time of the Commonwealth in England—namely, a representation of the people in parliament, termed a parliament, but without King or Lords, a *representative government*—"We should be very happy to enter into a correspondence with your society—as we are all engaged in the same grand and important cause, there is an absolute necessity for us to unite together, and communicate with each other, that our sentiments and determinations may centre in one point, viz. to have the rights of man re-established, especially in this nation; but our views of the rights of man are not confined solely to this small island, but are extended to the whole human race—black or white, high or low, rich or poor. I give you the following as my own opinion—perhaps you may think it a singular sentiment"—and then an opinion is given, which it is my duty to state, though I do not understand it—"that the king and the nobles, as much as the peasant and ignoble, are equally deprived of their rights.—Our society meets every Monday night."

Gentlemen, there is an answer to this, from a person of the name, I think, of Favell, who is chairman of the Friends of the People in Southwark: he says—"I duly received your letter, containing the resolutions of the London Corresponding Society—which I have communicated to our society in the borough—and I am directed to return them the thanks of that society, and to assure them they shall cordially unite with them, and all similar societies throughout the kingdom, in endeavouring to effect those great objects for which they are associated—namely, to engage the attention of their fellow-citizens to examine the general abuses of government, and to exercise their deliberative wisdom in a calm but intrepid manner in applying those remedies."—This is in April; and in August they expressly tell you, that there was to be no remedy from parliament—"in applying those remedies which the country at large may ultimately require—and they sincerely agree with you in hoping that the long-neglected rights of man will be restored, not only in this country, but in every part of the globe where man may dwell.—We shall very soon transmit you a copy of our declaration, and hope for your farther correspondence."

A letter and resolutions from the Revolu-



tion and Constitutional Societies at Norwich, dated 26th of April 1792, were read at the meeting of the society for Constitutional Information, on the 4th of May following: they distinctly state—that Mr. Paine's books were to be the medium, through which the prejudices that had grown up under the British government were to be got rid of, and the Constitutional Society return them their thanks in these words—"This society receives the above communication with the most heartfelt satisfaction, and desires earnestly to concur and co-operate with those societies in their laudable objects; that the secretary do inform them of the same, and that this society has unanimously elected the twelve members of the Norwich societies to be associated members of this society."

Upon the 11th of May 1792, the Constitutional Society resolved, that there should be a communication from that society with the society of the Friends of the Constitution at Paris, known by the name of Jacobins: they send an address to them, which is in these words—"Brothers and fellow-citizens of the world—

"The cordial and affectionate reception with which you have honoured our worthy countrymen, Mr. Thomas Cooper, and Mr. James Watt, members of the society of Manchester, and united with our society, has been communicated to us by the correspondence of those gentlemen.

"In offering you our congratulations on the glorious revolution which your nation has accomplished, we speak a language which only sincerity can dictate.

"The formality of courts affords no example to us: to do our thoughts justice, we give to the heart the liberty it delights in, and hail you as brothers.

"It is not among the least of the revolutions which time is unfolding to an astonished world, that two nations, nursed by some wretched craft in reciprocal hatred, should so suddenly break their common odious chain, and rush into amity.

"The principle that can produce such an effect is the offspring of no earthly court; and whilst it exhibits to us the expensive iniquity of former politics, it enables us with bold felicity to say we have done with them.

"In contemplating the political condition of nations, we cannot conceive a more diabolical system of government than that which has been generally practised over the world, to feed the avarice, and gratify the wickedness of ambition; the fraternity of the human race has been destroyed, as if the several nations of the earth had been created by rival gods—man has not considered man as the work of one creator.

"The political institutions, under which he has lived, have been counter to whatever religion he professed.

"Instead of that universal benevolence, which the

†

declares, he has been politically bred to consider his species as his natural enemy, and to describe virtues and vices by a geographical chart.

"The principles we now declare are not peculiar to the society that addresses you; they are extending themselves with accumulating force through every part of our country, and derive strength from an union of causes, which no other principles admit.

"The religious friend of man, of every denomination, records them as his own; they animate the lover of rational liberty, and they cherish the heart of the poor, now bending under an oppression of taxes, by a prospect of relief.

"We have against us only that same enemy, which is the enemy of justice in all countries, a herd of courtiers fattening on the spoil of the public.

It would have given an additional triumph to our congratulations, if the equal rights of man, which are the foundation of your declaration of rights, had been recognised by the governments around you, and tranquillity established in all; but, if despotisms be still reserved to exhibit, by conspiracy and combination, a further example of infamy to future ages, that power that disposes of events, best knows the means of making that example finally beneficial to his creatures.

"We have beheld your peaceable principles insulted by despotic ignorance; we have seen the right hand of fellowship, which you hold out to the world, rejected by those who riot on its plunder; we now behold you a nation provoked into defence, and we can see no mode of defence equal to that of establishing the general freedom of Europe.

"In this best of causes we wish you success; our hearts go with you; and in saying this we believe we utter the voice of millions."

Gentlemen, this address was signed by the chairman of the Constitutional Society, and transmitted to Mr. Watt, at Paris; and, upon the 28th of May 1792, was ordered to be published.

After this, the principles of Mr. Paine, which, you observe, contain the doctrines that I have been stating to you, were carried farther in a third book (I mean in that book called the Address to the Addressers, which I shall also be able to give in evidence to you): Mr. Paine having there gone the length of asserting the folly, absurdity, and wickedness of the government, under which we live—not only of asserting the incompetency of government, as it is constituted, to change itself, but having asserted that a conventional representation of the people, in that sense in which we speak of it, must do this work, he proceeds to the extent of stating the plan and form of an organization of that sort, upon which the convention was to be framed.

Gentlemen, it was impossible not to apply to the justice of the law, against the attack made upon our government by the person who

went to the extent I am now stating, with the approbation, published over and over again, of these societies, who, in their corporate character, if I may so speak, could not be prosecuted for doing it—it became necessary to ask a jury of this country, whether these doctrines were to be tolerated—what is the consequence of that? It is, that these societies immediately enter into subscriptions for the support of Mr. Paine, and they consider themselves as engaged in propagating his works in that way, in which no work ever was propagated—to the intent to produce that convention, without which the nation, in no organization of its government, could be said, according to them, to exist in a state of freedom as a nation.

Gentlemen, you will not be surprised, if it also appears that, in going on progressively to the execution of the mischief that was intended, they became more mischievous; and you will find members parting from the society, expressly telling them, that they meant to destroy the government of the country; that they cannot, therefore, stay among them; and to which members, as far as appears from any information that I have had, they did not condescend to explain themselves—to say, No, you have mistaken our object—this is not what we mean; but they leave them unanswered, and go on to execute the purposes they were about.

Having come to those resolutions in order to support Mr. Paine in these prosecutions, they publish the resolutions, they publish the books of Mr. Paine, they publish these resolutions in the various newspapers (the editors of these newspapers insuring, if I may so say, themselves against the hazards of the law, some for more, some for less, and they risk the hazard of propagating the doctrines, provided the consideration paid is ample enough, as a premium for the risk), and then these publications are sent down to the country to various places, in hundreds, and thousands—I am sorry to say, to persons of all professions, to distribute—I am sorry to say, to some of the most sacred professions, whose names will appear to you when they come to be read—and this mode of propagating these doctrines is adapted to the utter impossibility of detection, and for the very purpose of having that effect—to make the law of the country unequal to the mischief, which it was to meet.

At this time a proclamation was issued by the executive government of the country, in order to restrain these publications; and both the societies, you will find, cloaking themselves under the words "a full and fair representation of the people," which words they have never condescended to explain, which words never do exist in any text of any writing of theirs, as I can find, with the mention of a king, or other house of legislature;—they vilify the proclamation, and they make the very means the executive government took to suppress the mischief a mean by which they

VOL XXIV.

should spread the effect of the mischief more widely and diffusely than otherwise they could have done.

Upon the 24th of May 1792, there is a letter sent from Mr. Hardy, I believe not in his own hand-writing, but I believe in the hand-writing of Mr. Vaughan, whom I before named to you, in which he states, that, by the direction of the London Corresponding Society, he had the honour of enclosing to them a copy of their address and regulations, which he requests they will communicate to the Constitutional Society. The thanks of the society were given to them for this; and that is a publication more guarded than another you will find published upon the 6th of August 1792.

After stating their constitution, which I before mentioned to you, it says—"But, as Providence has furnished men in every station with faculties necessary for judging of what concerns themselves, shall we, the multitude, suffer a few, with no better right than ourselves, to usurp the power of governing us without control? Surely not: let us rather unite in one common cause to cast away our bondage, being assured, that in so doing we are protected by a jury of our countrymen, while we are discharging a duty to ourselves, to our country, and to mankind."

Gentlemen, you will find from a paper of the 6th of August, that that, which they supposed was to meet with protection from a jury of the country, was a combination to reform the government of the country by means—other than application to parliament—which binds together, with the king, as the great political body of the country, the whole system under which we live.

Gentlemen, the London Corresponding Society, as to the king's proclamation, followed the example of the Constitutional Society, and, on the 31st of May, 1792, in a paper that will be read to you, they vilify the proclamation; and this paper having been communicated by the London Corresponding Society to the Constitutional Society— they, aware of the nature of it, order, that that paper should be published in such newspapers as will receive the advertisements of this society.—They were pretty well aware that they were of such a nature as made it somewhat hazardous to publish them.

You will find a letter, dated the 14th of June, 1792, from certain persons styling themselves the Editors of the Patriot (who they are I am not able to state to you, but who, for the purposes of these societies, thought it necessary to conceal their names), in which they desire the Corresponding Society to take an opportunity of enlightening the public mind by publications, by advertisements, by circulating those papers in villages to country farmers, desiring, as I stated, to conceal their name, but requesting that the papers might be sent to a person, who holds an important situation in a subse-

X



quent part of this business—a Mr. Gale, a bookseller at Sheffield.

Gentlemen, there will be laid before you various parts of the proceedings of the Constitutional Society, which relate to Mr. Paine, which I shall now pass over, except for the purpose of calling your attention to another publication of his upon the sixth of June, 1792, and which was addressed to Mr. Dundas; you will likewise find that that book, which will be given you in evidence, distinctly disavows all hereditary government; all monarchy, under whatever qualifications; and then, for the purpose of circulating this doctrine, as they had before circulated the doctrines in other works of this gentleman, they order, "that twelve thousand copies of that letter shall be printed for the society, for the purpose of being transmitted to our correspondents throughout Great Britain, and that a committee be appointed to direct the same."

Gentlemen, I pass on now to the 6th of August, 1792; at which time there appears to me to have been an extremely important transaction in the London Corresponding Society; it is the propagation of an address of that date, which first develops, as it seems to me, though in somewhat of covert language, the determination of these societies to work what they call a reform without any communication whatever with that parliament, which they held to be incompetent to bring about the business.

You will find that, upon the 8th of August, Mr. Hardy wrote a letter to Mr. Tooke; that he sent him a proof copy of this address; that he hoped it would merit his attention, and his approbation; that he should be exceedingly happy to be favoured with his opinion of it before it was printed.

The address, after stating what they considered as the grievances of the country, states this—"Such being the forlorn situation of three fourths of the nation, how are Britons to obtain information and redress? Will the Court, will ministry afford either? Will parliament grant them? Will the nobles or the clergy ease the people's sufferings? No. Experience tells us, and proclamations confirm it, that the interest and intention of power are combined to keep the nation in torpid ignorance."

It then states the only resource to be in these societies; it then states various detailed reasons, which you will hear, and then proceeds to this effect:

"Numerous other reforms would undoubtedly take place, even in the first session of parliament so elected, dependant only on their electors the people; untorn therefore by faction, undivided by party, uncorrupted by ministry, and uninfluenced but by the public good. Every transaction would tend to reform, and a strict economy, its natural consequence, might soon enable us to reduce our taxes; and by the integrity of parliament,

that reduction would light upon such objects as best might relieve the poor; this to the people would prove an advantageous and a novel session, and to an honest parliament not a tiresome one.

"Therefore, Britons, friends, and fellow-citizens, with hand and heart unite, claim what is your right, persevere and be free, for who shall dare withstand our just demands? Oppression, already trembling at the voice of individuals, will shrink away and disappear for ever, when the nation united shall assert its privileges and demand their restoration."

Gentlemen, the address you will find was circulated with infinite industry to every corresponding society in the kingdom, conveyed through every possible channel, the doctrine adopted by all the affiliating societies; and the plan, which they went upon from this 6th of August, 1792, appears to have been a plan to redress themselves by their own power, and by their own strength, and not by application to that parliament, which alone can act in legislation: it seems to me to be impossible that you can mistake what is meant by this paper, if you will give your more particular attention to a paper which was received from a society at Stockport, upon the 27th of November, 1792, and found in the possession of Mr. Hardy: this, after adverting to those numerous grievances stated in the address of the 6th of August, 1792, is to this effect:

"In obedience to the wishes of the society here, I have the pleasure of acknowledging the honour of your letter, and the packet, which the kindness of our brothers of the London Corresponding Society so opportunely presented us with.

"It is doubly deserving our thanks, as it shows your kindness, and as it will be useful in the formation of our infant society; we stand much in need of your experience in this particular, and we doubt not of your best assistance; we are surrounded by a majority, a formidable one indeed in power, abilities, and numbers, but we are not dismayed.

"We have carefully perused the addresser, and I am to observe upon their contents in general, that the sentiments hardly arise to that height which we expect from men sensible to their full claims to absolute and uncontrollable liberty, i. e. unaccountable to any power which they have not immediately constituted and appointed.

"These are our sentiments, whatever may be yours; though, in the present state of political knowledge, it may be prudent not to avow them openly. We desire your sentiments on the means of accomplishing that object, which we presume you have in view in common with us; we think it expedient that we should perfectly understand each other in the beginning, lest the appearance of disunion might furnish matter of triumph to our enemies; we observe one expression,"—you will take notice that Mr.



Hardy at this time was a member both of the London Corresponding and the Constitutional Societies:—"we observe one expression, which says, 'numerous other reforms would take place,' &c. &c.; but we ask how is that parliament to be chosen? Can we expect it from the present order of things? Would not all the evil be done away at once by the people assembling in convention? Does it appear probable that the odious laws which we complain of, will be abolished any other way? Can the grievances arising from aristocracy be redressed while the *re-* retains its present authority in the legislature?"—whether this blank is to be filled up with crown or the House of Lords is for you to judge—"retains its present authority in the legislature? Is the universal right of conscience ever to be attained while the B— maintain their seats on the

"Your thoughts on these important points we most earnestly desire may be transmitted to us as soon as possible, not directed as the last,"—and this you will find often occurs; letters sent under a feigned direction; "we fear it will excite suspicion."

The Stockport Society say of the address of the 6th of August, 1792, sent to them, that they think it hardly amounts to sentiments such as theirs, namely, that they must have absolute and uncontrollable liberty, unaccountable to any power which they have not immediately constituted—that could not be the king and parliament of Great Britain—they say, "We presume you have the same view in common with us, and we desire to have your sentiments upon the means of accomplishing that object." What object? The object of putting themselves in a situation of being unaccountable to any power, which they themselves had not immediately constituted and appointed—how was that to be done?—was it to be done by parliament? The address of the 6th of August had disavowed that it was to be done by parliament. Is it to be done, while the other parts of the legislature hold their situation in the legislature? We presume you have the same object: tell us what you think upon this occasion. This was the occasion, upon which the address of the 6th of August ought to have been explained, if they meant to disavow that they had any such object; but what is the answer?—The answer in effect is: That full and fair representation of the people that we are aiming at, is that which is to be the mediate or immediate instrument of removing all the grievances we labour under, though prudence does not permit us to speak all we think upon the subject.

"With infinite satisfaction the London Corresponding Society's committee perused your letter; they are happy to learn your steady determination, in spite of all obstacles, to pursue that sole means of political felicity, a perfect representation of the people."

Now, what was the sole means of this

political felicity—a perfect representation of the people?—It was the formation of a power by the people making themselves unaccountable to any other power, to any power but that which they had immediately themselves constituted, namely, an assembly by a convention of the people. Then, why do not they speak out? They say, "With regard to our publications, our sentiments are expressed in as strong terms as prudence will permit, yet plain enough to convince the public, that, while we expect every thing from an honest and an annual parliament, a body might exist under the term parliament in a commonwealth, as well as under a king—"nothing short of such a senate, chosen by the whole nation, will satisfy us.

"True generosity, the characteristic of this nation, and of all unpurged men throughout the globe, calling upon us to countenance at this juncture the arduous struggle of the French nation against despotism and aristocracy, those foes to the human race, we have resolved upon addressing the French National Convention." You will permit me to observe, this was upon the 11th of October 1792: the king of France was deposed in effect upon the 10th of August 1792. This passage, in the transactions of this society, appears to me to be peculiarly worthy your attention. "Without entering into the probable effects of such a measure, effects, which your society will not fail to discover, we invite you to join us; and to that end, herewith you have a copy of our intended address; if you approve the idea, and will concur in sending it, be pleased to return us without delay, a copy signed by your president: we will then associate your body with ours, and with some others, who have already assented to the measure: if, on the contrary, you disapprove that mark of zeal towards the only nation that has hitherto undertaken to restore to mankind its just rights, please to communicate to us your objections." This was upon the 11th of October 1792; upon the 6th of October 1792, Mr. Barlow (whose name occurs before with respect to his publication relative to the privileged orders) writes a letter to the society for Constitutional Information, accompanied with a book, called "Advice to the National Convention of France;" and you will be pleased to observe, that Mr. Barlow, and a Mr. Frost\* afterwards, in the month of November, were sent with an address from the Constitutional Society to Paris, as their delegates for that purpose. The letter of Mr. Barlow is in these words:

"I have lately published a small treatise, under the title of 'A Letter to the National Convention of France, on the Defects of the Constitution of 1791, and the extent of the Amendments which ought to be applied;' although the observations contained in this

\* See his trial for Seditious Words, *anti*, Vol. 22, p. 471.



letter are more particularly applicable to the French nation in the present crisis of its government, yet, as the true principles of society are every where the same, their examination cannot be unseasonable in any nation, or at any time; believing, therefore, that the subject of this treatise will not be thought foreign to the great object of your association, I present a copy of it to you with the same confidence as I have done to the National Convention, and to the Constitutional Society at London, a confidence arising from the full persuasion that the work is founded in truth and reason. I take the liberty at the same time to send you a copy of another publication, intitled 'Advice to Privileged Orders.' The present disposition in Europe towards a general revolution in the principles of government is founded in the current of opinion, too powerful to be resisted, as well as too sacred to be treated with neglect; and it is the duty of every individual to assist, not only in removing the obstructions that are found in the way of this revolution, but in ascertaining, with as much precision as possible, the nature of the object to be aimed at, and the consequence to be expected from the attainment: it is above all things to be desired, that the convictions to be acquired from national discussion should precede and preclude those which must result from physical exertion."

Now, you will give me leave to state to you what the doctrine is in this book, for which the Society for Constitutional Information, Mr. Hardy then a member of it, thank Mr. Barlow, make him an honorary member, and afterwards depute him to the National Convention of France.

Gentlemen, the doctrine, I can explain it to you generally, without troubling you by reading particular passages, amounts to this: Mr. Barlow, after stating the principles of equal active citizenship, which found their way into the constitution of France in 1791, and which constitution had made the king a part of the system of that government, informs them of the glorious victory of the 10th of August, as the papers, which I have to adduce presently, represent it; that it had accomplished finally the effect of those principles, which he understands to be the principles of those to whom he was writing; that it is impossible they should consist with this sentiment, *that a king could be retained in a government*; that the constitution was at variance with itself; that those who made it had not discovered that, or, having discovered it, they thought the time was not yet come, when they could reduce the constitution to that pure government which was the object of these societies; he then tells you, that in government the maxim being *that a king can do no wrong*, the maxim ought to be, *that he can do no good*.

This gentleman, so stating his doctrine as an explanation of the principles upon which they are acting, is voted by them an honorary member, and afterwards sent to Paris with the

papers, which I am about to read to you: a great deal of evidence will be laid before you, to prove that they had beat up all the country for letters and addresses to express the same principles to France, not on account of the cause of France, but of the cause of England, and with a view to introduce the same effects into England. I shall state but two of these addresses, because they seem to contain the effect of all the rest that were actually sent.

The London Corresponding Society first of all communicated to the Constitutional Society, in the month of October 1791, their intention of sending an address to France: the Constitutional Society fully approve the purpose: they see the end that it aims at, and they determine not to concur in the same address, but to send a separate address; and in their paper you may see the principles of both to be principles, which were expressed for the very purpose of aiding the co-operation of the societies in excluding the king from the government of the country, and of raising a republic. This is the letter:

"Frenchmen, while foreign robbers are ravaging your territories under the specious pretext of justice, cruelty and desolation leading in their van, perfidy and treachery bringing up the rear, yet mercy and friendship impudently held forth to the world as the sole motives of their incursions; the oppressed part of mankind"—that is, Great Britain—"forgetting for a while their own sufferings, feel only for yours, and with an anxious eye watch the event, fervently supplicating the Almighty Ruler of the universe to be favourable to your cause, so intimately blended with their own,"—that cause which upon the 10th of August had excluded the king from the government of the country—"frowned upon by an oppressive system of control, whose gradual but continued encroachments have deprived this nation of nearly all its boasted liberty, and brought us almost to that abject state of slavery, from which you have so emerged; five thousand British citizens indignant manfully step forth to rescue their country from the opprobrium brought upon it by the supine conduct of those in power; they conceive it to be the duty of Britons to countenance and assist, to the utmost of their power, the champions of human happiness, and to swear to a nation, proceeding on the plan you have adopted, an inviolable friendship. Sacred from this day be that friendship between us, and may vengeance, to the uttermost, overtake the man who hereafter shall attempt to cause a rupture.

"Though we appear so few at present, be assured, Frenchmen, that our number increases daily: it is true, that the stern uplifted arm of authority at present keeps back the timid; that busily circulated impostures hourly mislead the credulous; and that court intimacy with avowed French traitors has some effect on the unwary and on the ambi-



tious; but with certainty we can inform you, friends and freemen, that information makes a rapid progress among us; curiosity has taken possession of the public mind; the conjoint reign of ignorance and despotism passes away; men now ask each other, What is freedom? what are our rights? Frenchmen, you are already free, and Britons are preparing to become so; casting far from us the criminal prejudices artfully inculcated by evil-minded men and wily courtiers, we, instead of natural enemies, at length discover in Frenchmen our fellow-citizens of the world, and our brethren by the same heavenly Father, who created us for the purpose of loving and mutually assisting each other, but not to hate, and to be ever ready to cut each other's throats at the command of weak and ambitious kings, and corrupt ministers; seeking our real enemies, we find them in our bosoms, we feel ourselves inwardly torn by and ever the victim of a restless and all-consuming aristocracy, hitherto the bane of every nation under the sun; wisely have you acted in expelling it from France.

"Warm as our wishes are for your success, eager as we are to behold freedom triumphant, and man every where restored to the enjoyment of his just rights, a sense of our duty, as orderly citizens, forbids our flying in arms to your assistance; our government has pledged the national faith to remain neutral in a struggle of liberty against despotism. Britons remain neutral!—O shame! but we have trusted our king with discretionary powers; we therefore must obey: our hands are bound, but our hearts are free, and they are with you.

"Let German depots act as they please, we shall rejoice at their fall; compassionating however their enslaved subjects, we hope this tyranny of their masters will prove the means of reinstating in the full enjoyment of their rights and liberties millions of our fellow-creatures.

"With unconcern therefore we view the elector of Hanover,"—that is, the king of Great Britain—join his troops to traitors and robbers; but the king of Great Britain will do well to remember, that this country is not Hanover. Should he forget this distinction, we will not.

"While you enjoy the envied glory of being the unaided defenders of freedom, we fondly anticipate in idea the numerous blessings mankind will enjoy; if you succeed, as we ardently wish, the triple alliance (not of crowns, but) of the people of America, France, and Britain, will give freedom to Europe, and peace to the whole world. Dear friends you combat for the advantage of the human race; how well purchased will be, though at the expense of much blood, the glorious unprecedented privilege of saying,—Mankind is free: tyrants and tyranny are no more: peace reigns on the earth, and this is the work of Frenchmen."

Gentlemen, this address, which was sent by that society, was followed by another from the Society for Constitutional Information, upon the 9th of November 1792, which seems likewise to state their principles.

"Servants of a sovereign people, and benefactors of mankind;—

"We rejoice that your revolution has arrived at that point of perfection which will permit us to address you by this title,"—Servants of a sovereign people. That is not the character of a British government; this is the principle of the Southwark resolutions—"it is the only one which can accord with the character of true legislators. Every successive epoch in your affairs has added something to the triumphs of liberty and the glorious victory of the 10th of August has finally prepared the way for a constitution, which we trust you will establish on the basis of reason and nature." Mr. Barlow had in effect said and they had made him an honorary member, and had transmitted their address by his hands, that no constitution could reform upon the basis of reason and nature, that left a king in the government, however the government was modified.

They proceed thus in their address—"Considering the mass of delusion, accumulated on mankind to obscure their understandings, you cannot be astonished at the opposition, that you have met both from tyrants and from slaves; the instrument used against you by each of these classes is the same, for, in the genealogy of human miseries, ignorance is at once the parent of oppression and the child of submission.

"The events of every day are proving, that your cause is cherished by the people in all your continental vicinity: that a majority of each of those nations are your real friends, whose governments have tutored them into apparent foes; and that they only wait to be delivered by your arms from the dreadful necessity of fighting against them.

"The condition of Englishmen is less to be deplored; here the hand of oppression has not yet ventured completely to ravish the pen from us, nor openly to point the sword at you."

They then go on to say:—"From bosoms burning with ardour in your cause, we tender you our warmest wishes for the full extent of its progress and success; it is indeed a sacred cause; we cherish it as the pledge of your happiness, our natural and nearest friends, and we rely upon it as the bond of fraternal union to the human race, in which union our own nation will surely be one of the first to concur.

"Our government has still the power and perhaps the inclination to employ hirelings to contradict us; but it is our real opinion, that we now speak the sentiments of a great majority of the English nation. The people here are wearied with imposture, and worn out with war, they have learned to reflect that both the one and the other are the ob-



spring of unnatural combinations in society, as relative to systems of government, not the result of the natural temper of nations as relative to each others happiness.

"Go on, legislators, in the work of human happiness; the benefit will in part be ours, but the glory shall be all your own; it is the reward of your perseverance, it is the prize of virtue, the sparks of liberty preserved in England for ages, like the coruscations of the Northern Aurora, serving but to show the darkness visible in the rest of Europe. The lustre of the American republic, like an effulgent morning, arose with increasing vigour, but still too distant to enlighten our hemisphere, till the splendour of the French revolution burst forth upon the nations in the full fervour of a meridian sun, and displayed,"—attend to the words—"in the midst of the European world the practical result of principles, which philosophy had sought in the shade of speculation, and which experience must every where confirm,"—the principles of Mr. Paine, who went over to form one in that convention, the existence of which shows the practical result of those principles, which philosophy had sought, and which experience was to confirm—it dispels the clouds of prejudice from all people, reveals the secrets of all despotism, and creates a new character in man.

"In this career of improvement, your example will be soon followed; for nations, rising from their lethargy, will reclaim the rights of man with a voice which man cannot resist."

Gentlemen, it will not be matter of surprise to you, that letters, such as these to the National Convention in France, should have produced opinions in that country respecting the attachment of individuals in this to their government. It is not therefore very extraordinary, that, upon the 19th of November 1792, that famous decree passed of fraternization with all subjects in all countries, who chose to resist the governments under which they live; but I think you will be surprised that any men could receive in this country, and read with approbation, and enter upon their proceedings, the answers which these addresses brought from France, and which were read in the presence of the prisoner at the bar, without being astonished that they did not at least take some means to reject from them the imputation that they meant in their own country, all that these answers suppose they mean, and all that these answers promise to assist them in accomplishing.

You will find, upon the 11th of December 1792, that a letter from the Society of the Friends of Liberty and Equality, sitting at Laon, the head of the department of the Aisne, to the Patriotic Society of London, called the Society for Constitutional Information, is read, and referred to their Committee of Correspondence: it is in these words—"The Society of the Friends of Liberty and Equality sitting."

the Aisne, to the Patriotic Society of London, called the Society for Constitutional Information.—Generous republicans, the philanthropic gift that you have presented to the warriors of France—they had sent some shoes, and were at that time thinking of giving them some arms—"announces with energy the great interest that you take in the sacred cause which they are defending. Accept the thanks of a society that does honour to itself in esteeming you. The time perhaps is not far distant, when the soldiers of our liberty shall be able to testify their gratitude to you: then their arms, their blood itself, shall be at the service of all your fellow-citizens, who, like you, acknowledge no rights but the rights of man; then France and England shall form together a treaty of union as lasting as the course of the Seine and the Thames; then there, as here, there shall exist no other reign but that of liberty, equality, and friendship. May this day of felicity and glory soon shine upon the horizon of two nations formed to admire each other!"

Gentlemen, they then enter upon the minutes of the society another letter, from another fraternizing society,—whether one of those societies which they speak of in the beginning of 1792, as affiliating societies in France, or not, I do not know;—whether they had been assisting to reduce their principles into practice I do not know; but it is clear, that the affiliating society in France offered them their assistance for that purpose. Accordingly, you will find that the Society of the Friends of Liberty and Equality, established at Macon, write to the Constitutional Society at London, adverting to what they had said in their address to the nation about the glorious victory of the 10th August 1792, the circumstances of which shall be described to you in evidence, because you will find that some of the persons who are charged in this indictment (and whose conduct in this conspiracy, will, upon the clearest principles of law, affect all of them) were then present in Paris. They write thus—"Yes, citizens, our brethren and friends, the 10th of August 1792 shall be distinguished"—what, in the annals of France?—"distinguished in the annals of the world, as the day of the triumph of liberty, our first revolution"—(Mr. Joel Barlow or Mr. Paine, one should have thought, had wrote it)—"our first revolution did but show to us the salutary principles of the inalienable rights of man: all, except the faithless and the enemies of humanity, adopted them with enthusiasm. It was then that we formed ourselves into a society, in order the better to impress them upon ourselves, and afterwards to teach them to our fellow-citizens."

"Our first constitution had consecrated them, but had not always taken them for its base: the dominion of the passions, the force of habit, the impression of prejudices, and the intrigues employed in our Con-

stituent Assembly, found the secret to preserve sufficient authority to our tyrants, to extinguish at some time the sacred rights of nature, and to re-establish despotism on its throne of iron.

"But royalty, thus preserved, was not content with the victory secured to it by a set of men, the greatest part of whom it had corrupted. It was impatient to reap the fruits that it appeared to promise itself; but its too great eagerness has hastened its ruin, and secured the triumph of reason.

"The French, proud of their own existence, soon perceived the fruit of their first legislature; became sensible of the imperfections of their first laws, saw that they made a surrender of the rights of liberty and equality, which they had embraced; they roused themselves anew to demand at length laws impartial and humane.

"From thence the necessary day of the 10th of August 1792, from thence a second revolution, but a revolution, which is only the completion of the first, which has received our vows and our oaths, and which we will bless for ever, if it leads us, as we hope it will, to the happiness of the nation, to the constant maintenance of liberty and equality.

"Let intriguers, fools, and tyrants, calumniate us; we despise them too much to condescend to answer them, and seek for their esteem.

"That which flatters us is the interest that you take in our labours: your attention has contributed to the success of our arms. We desire your esteem, we are proud of your approbation.

"We smile at the expression of the sentiments that you manifested to our representatives. We behold a nation of brethren rouse itself to support the cause of humanity; we behold the brave English adopt our principles, become our friends: we say to each other with pleasure, soon will they become our allies; and uniting our efforts, we shall go on to deliver the universe from the yoke of tyrants, to restore the nations to reason and nature. That day is not far distant, if we may rely on our own courage, and the hope of your alliance. In the mean time, receive our thanks, and correspond with brethren who set a high value upon your esteem."

Gentlemen, on the 17th of December 1792, the Popular and Republican Society of another department at the mouth of the Rhone, wrote them this letter: "The Popular and Republican Society of Apt, department of the Mouths of the Rhone to the Popular Society sitting at London. Live free or die. Citizens, brethren, and friends, when two great nations, acquainted with their rights, approximated by their commercial connexions and their national situation, formed to live and to act in concert with each other, begin to form the glorious project of uniting themselves for the regeneration of the human race, one may then say with reason that kings are ripe and ready to

fall. How glorious it will be for France and England to have formed alone a confederacy destructive of tyrants, and to have purchased at the price of their blood the liberty of Europe; we may say more, of the whole universe! Courage, brethren and friends! It is for you to follow in the glorious and hazardous career of the revolution of the world; can you any longer groan under the yoke of a government that has nothing of liberty but the name? for, although your land was inhabited before ours by freemen, can you, without delusion, consider your government as such? Will you content yourselves with a partial freedom? Will the English be satisfied with principles? Will that bold nation, that has produced philosophers the most profound, and that first of all perceived the sparkling rays of freedom, remain a spectatrix in so noble a cause? No, brethren and friends, no? you will soon lift yourselves up against that perfidious court of St. James's, whose infernal policy, like that which found its doom in the Thuilleries, has made so many victims in our two nations, and does disunite them perpetually to rule over them. Your love for liberty has fixed your attention upon the wants of our defenders: your generosity towards them has a title to the acknowledgment of the republic; we are impatient to furnish you the same advantages: the Popular Societies of France desire ardently the epoch that shall permit them to address their voice to the National Assembly of Great Britain, and to offer to the soldiers of liberty of your nation, arms, bayonets, and pikes."

This is the private correspondence between the societies and the Society for Constitutional Information; but some of the persons named in this Indictment were present at the scenes I am now going to state at the bar of the National Convention in France; others of them delivering these sentiments by their ambassador Mr. Barlow whose principles you have seen, and Mr. Frost, of whom I must state it, because I shall prove it, that he has been convicted in this country of coming from that country with the doctrine of No King; they offer these addresses to the National Convention of France in terms, the substance of which I will state to you as far as I understand it, to be, and I believe it is an accurate translation.

"Mr. Barlow and Mr. Frost, English citizens, being admitted to the bar, one of them pronounced the following address:—Gentlemen, the actual fact of his pronouncing it will be given in evidence: the date is the 26th of November 1792, nine days after the decree of the National Convention, which had pronounced fraternal assistance to the subjects of any country that found themselves oppressed by any of their exalts and privileged orders.

"Citizens of France, we are deputies of the Society for Constitutional Information in London, to present to you their courage



on the triumphs of liberty. This Society had laboured long in the cause with little prospect of success previous to the commencement of your revolution; conceive then their exultations and gratitude when, by the astonishing efforts of your nation, they beheld the reign of reason acquiring an extension and solidity which promised to reward the labour of all good men, by securing the happiness of their fellow-creatures. Innumerable societies of a similar nature are now forming in every part of England, Scotland and Ireland; they excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of a reform. After the example which France has given, the science of revolutions will be rendered easy, and the progress of reason will be rapid. It would not be strange if, in a period far short of what we should venture to predict, addresses of felicitation should cross the seas to a *National Convention in England*. We are also commissioned to inform the Convention, that the society which we represent has sent to the soldiers of liberty a patriotic donation of a thousand pair of shoes, which are by this time arrived at Calais; and the society will continue sending a thousand pair a week for at least six weeks to come; we only wish to know to whose care they ought to be addressed."

Why, Gentlemen, am I to be told then, that, in the month of November 1792, those who, in August 1792 had said they could apply with no effect to parliament, had no idea of such a National Convention in England as that National Convention in France which they were addressing, and from which they were expecting to receive addresses? Am I to be told that they had no idea of such a convention, as should overturn the constitution of this country? It is impossible to put such a construction upon such proceedings.

Gentlemen, you will likewise find that the president of the Convention thought it necessary to give an answer to this address. I will state the substance of it: it will be read in evidence; therefore I shall not take up time in looking for it. The president considering them as generous republicans (and well he might after what had passed), makes an address to them, expressing much the same sentiments as those in which they had addressed him, and then he concludes by saying—"Without doubt the time approaches when we shall soon send congratulations to the *National Convention of England*."

Gentlemen, you will likewise find that the London Corresponding Society, and the Constitutional Society, endeavoured to excite persons in all parts of this kingdom to send these addresses; that in point of fact, there are various other addresses sent, of similar import, at the instigation of these societies, and the intent of them, I think, cannot possibly be misunderstood; but take the intent of them to be what you will, let my learned friend tell you, as he will, that there as yet

was no war between Great Britain and France, you will allow me to say that there is evidence of a distinct intent that there should be a National Convention in England, and that the French soldiers of liberty should assist what they would call the soldiers of our liberty, whether there should be a war between Great Britain and France, or not: and you will allow me to say, that in that very month of November 1792, a passage occurs, in which France does in effect declare war against all nations that did not adopt her principles, and allow the people to put them into execution.

In a conspiracy, as widely extended as this is, I shall undoubtedly insist, before you and the Court, that the acts of individuals, and particularly the acts of persons sent to present addresses to a foreign country, that what they do in reference to these acts is evidence against all of them; and likewise that letters which the persons write relative to the same addresses, are evidence against each of them whether written by the particular individual or no, as being in the prosecution of the same purpose. Upon the 20th of September 1792, Mr. Frost, who was then at Paris, states his notions in a letter to Mr. Tooke, of the real effect of this transaction of the 10th of August 1792, about which time Mr. Paine made his first appearance in the National Convention—"Without the affair of the 10th of August liberty was over—We dine to-day with Pétion—Paine has entered his name on the roll of parliament, and went through the forms of office with a great deal of nonchalance—We are well lodged, and beside our bed-rooms, have an entertaining room for members to be shown into, and several have called upon us this morning."

Then you will find, that there being a project to send shoes to the soldiers of France, and arms and muskets, with respect to which project the prisoner was a contributor—for the purpose of having this present from England to France properly distributed in France, the following letter is written to the mayor of Paris:

"Sir:—You are in no want of friends in England, who ardently wish to be useful to French liberty; but we wish to know some one of your friends who resides in London, in whom you have an entire confidence, and to whom we may give our money, in the assurance that it will be remitted to you without delay, and without fraud. Mr. Frost to whom I entrust this letter, is going to set out immediately with Mr. Paine for Paris, and allows me no time for ceremony, if it were necessary. I request you to send me the name of some Frenchman in London, merchant, or other, for the purpose above mentioned. We can now begin the public contribution towards our patriotic gut with a thousand pounds sterling, and I have no doubt but it will amount in time to several thousands; if you consider this step in the same point of view that we do, you will see in it much

use to the common cause in England and France. I entreat you to give me your sentiments upon the subject, and to point out to me the means by which I may be useful to you."

This is answered, upon the 1st of October, by Petion, thus—"You cannot, sir, doubt of my eagerness to second views so useful, which will for ever merit our gratitude, will rivet the links of fraternity between us, and must produce the greatest advantages to England and France. I shall have the honour, sir, of sending you without delay, the name of the person in whose hands you may place the funds which you destine to the support of a cause which, in truth, is that of all people who cherish liberty."

Gentlemen, it may be in the recollection of perhaps most who now hear me, that circumstances of this sort, which were supposed to be in existence, but, which, in fact, were not capable of being proved to be in existence, had excited in this country considerable alarm in the minds of many persons who live in it.—This alarm, it seems to have been thought necessary, both in the Constitutional Society, and also in the London Corresponding Society, in some degree to lay asleep, as far as it affected them; they thought it necessary, therefore, to give some declaration, as they call it, of their principles, and I will state to you shortly what that was—but the explanation, which the London Corresponding Society gave, was thought so little safe, though it was given for the purpose of laying asleep alarms, that it will be distinctly proved to you—that being written as I am instructed to state to you (and I do it because I am instructed, and it is my duty), being written by Mr. Vaughan, it was agreed to be stuck up round the town at midnight—that accordingly a person of the name of Carter, a billsticker, was employed for that purpose;—that some mistake happened between him and his employers; that having made that mistake, he was not thought a proper person to be employed in considerable business in the society afterwards: this person was taken up in the act of sticking the bills round this town, which contains this address—he was prosecuted—he was convicted—and lay six months in a gaol in consequence of that conviction; and this was the fate that attended the issuing into the world an address, which was to appear not originally by daylight, but by midnight.

With respect to the address of the Constitutional Society, I think I shall not be thought to make an unfair observation upon it when I say this—that if I had not read to you what I have already read, you would have found it impossible to say what it was, upon reading that paper that they meant to say, who published it; but after what I have read to you I think you can have no difficulty to determine that the paper they published, and the paper of the Corresponding Society, were

by no means such as were calculated in any manner to disavow those principles, which I think I have shown you satisfactorily, from March 1792, were the principles they acted upon and adopted.

Gentlemen, the address of the London Corresponding Society is in these words:—"Friends and fellow-countrymen, unless we are greatly deceived, the time is approaching when the object for which we struggle is likely to come within our reach. That a nation, like Britons, should be free, it is requisite only that Britons should will it, to become so"—that is a passage borrowed from Mr. Paine—"that such should be their will—the abuses of our original constitution, and the alarms of our aristocratic enemies, sufficiently witness: confident in the purity of our motives, and in the justice of our cause, let us meet falsehood with proofs, and hypocrisy with plainness; let us persevere in declaring our principles, and misrepresentation will meet its due reward—contempt."

"In this view the artifices of a late aristocratic association, formed on the 20th instant call for a few remarks on account of the declarations they have published, relative to other clubs and societies formed in this nation. It is true that this meeting of gentlemen (for so they style themselves) have mentioned no names, instanced no facts, quoted no authorities"—it was a little difficult to do it, unless they had the means of seeing all the correspondences at home and abroad—"but they take upon themselves to assert that bodies of their countrymen have been associated, professing opinions favourable to the rights of man, to liberty and equality"—mark these expressions—"and moreover that these opinions are conveyed in the terms, *no king, no parliament*."

Gentlemen, what I have been endeavouring to state to you is this, that it is necessarily to be inferred from their principles that they did mean to assert, when they were ripe for it, *no king, no parliament*: it is not my imputation—I do not know whose it was, to which this alludes, that they did express their opinion in the language, *no king, no parliament*; but I say that they expressed their opinions in language, which, when accurately looked at, as forcibly import the ideas, as if they had used the words *no king, no parliament*—"if this be intended to include the societies to which we respectively belong, we here, in the most solemn manner, deny the latter part of the charge."—What is the latter part of the charge? that they do not mean to have a king or parliament? No—but that the opinions are conveyed in the terms, *no king, no parliament*.—Whoever shall attribute to us the expressions of *no king, no parliament*, or any design of invading the property of other men, is guilty of a wilful, an impudent, and a malicious falsehood"—and then this paper, stating a great deal more, which, in justice to the paper itself, shall be read to you, concludes



thus—"Let us wait and watch the ensuing session of parliament, from whom we have much to hope and little to fear. The House of Commons may have been the source of our calamity, it may prove that of our deliverance; should it not, we trust we shall not prove unworthy of our forefathers, whose exertions in the cause of mankind so well deserve our imitation."

Now, gentlemen, I ask, after concluding this letter, what this means—"if parliament should not do it."—If we are ready to admit that parliament is formed upon principles that make it competent to do the thing, if it please to do it, it is all well; but if it will not, then we will not prove unworthy of our forefathers, whose exertions in the cause of mankind so well deserve our imitation—and referring you back to the correspondence between the Norwich and the London Corresponding Society, to the declaration of the 6th of August 1794, which said they had nothing to look for from parliament—to the correspondence with the National Convention of France—to the conduct, which in the presence of their delegates, was permitted—and never repudiated by any act of the London Corresponding Society; and referring you, moreover, to the subsequent evidence, which I have to offer to you; I think you will find that the sentiment which is expressed by the author of this paper, upon the 19th of November 1792, was a sentiment which, if followed up by those who continue to hold it, meant that, if parliament did not give them redress, they would have it by their own force.

With respect to the Constitutional Society, all it thinks proper to say upon the subject is this:—"that the object of this society, from its first institution to the present moment of alarm, has uniformly been, to promote the welfare of the people"—I beg your attention to these words—"has uniformly been to promote the welfare of the people by all constitutional means."—Now if I were to stop here, with a view to show you what you are to understand by the words,—"all constitutional means"—are the means I have been stating constitutional means? Will it make the means more constitutional than they really are, because they choose to call them so?—"and to expose in their true light the abuses which have imperceptibly crept in, and at last grown to such a height, as to raise the most serious apprehensions in every true friend of the constitution."

"Resolved, 2dly—That this society disclaims the idea of wishing to effect a change in the present system of things by violence and public commotion, but that it trusts to the good sense of the people"—You will find, before I have done, that, in April 1793, it could not trust to the good sense of the people—"when they shall be fully enlightened on the subject to procure, without disturbing the public tranquillity, an effectual and permanent reform."

"Resolved, 3dly—That the intentions of

this and similar societies have of late been grossly calumniated by those who are interested to perpetuate abuses, and their agents, who have been industrious to represent the members of such societies, as men of dangerous principles, wishing to destroy all social order, disturb the state of property, and introduce anarchy and confusion instead of regular government.

"Resolved, 4thly—That, in order to counteract the operation of such gross aspersions, and to prevent them from checking the progress of liberal inquiry, it is at this time peculiarly expedient that this and similar societies should publicly assert the rectitude of their principles."

"Resolved—That the said resolutions be adopted, in order for printing in the newspapers."

Now I desire any person to read that paper through again, and then, gentlemen of the jury, if it is relied upon, be so good as to ask yourselves what is the definite meaning in any one passage in it.

About the same time there is an address from the Manchester Society, dated the 14th of December 1792, which appears to have been read in the Constitutional Society, in the presence of the prisoner, and which address has some very particular circumstances about it, for you will find that there was a resolution upon the 14th of December 1792, in these words—"Read a printed address from Manchester—Resolved, that the said address be approved for publishing in the newspapers."

It appears by a paper, which I shall produce to you, that the words *Read a printed address from Manchester*, are in the hand-writing of Mr. Tooke; that the address itself is in the hand-writing of Mr. Tooke; whether it was a copy of any address at Manchester or not, I do not know: this address appears afterwards to be in print; it is sent for publication; and with a view to show to the public what extent the distribution of libels has arisen to in the progress of a treasonable purpose in London, this address was ordered to be printed, and that a hundred thousand copies of it should be distributed to their correspondents in Great Britain and Ireland.—The report that was made upon it was, that it had been offered to the Morning Chronicle the Morning Post, and that the paper itself, though drawn by a masterly hand, was such, that they durst not venture to print it—I believe it was however printed in London. You will occasionally see papers printed in the country, at Manchester, if London will not do it; or if the law of England has reached as far as this side of the Tweed, so as to check the publication of a libel, then it is carried over the Tweed, in order to be published in Scotland, where it might be more safely done.

Now, in this paper, which bears date upon the 14th of December 1792, and recollecting, as I hope you will do, what I have already stated to you of the principles of those who



were concerned in this transaction, as these principles had been manifested in all the other transactions, I have stated to you, you will find there is this passage: he says—"To gull the poor with the insolent falsehood, that the laws are the same for the poor as the rich, or with idle panegyrics on a rotten constitution, which you have not examined, and of which you feel not the benefit—The real friends of the people hear with pity and bear with patience the hourly calumnies to which they are exposed; they entertain, however, no personal enmities, no aversion, but to the enemies of the people, and no disrespect to the constitution, but where it is hostile to the rights of the people."

Now, why it is said to be hostile to the rights of the people, I think, can be pretty well understood, after what I have stated to you about these communications with France, but it need not be left there, for you will find that this is more distinctly stated in the draught of an answer to a letter, which was likewise read and entered among the minutes of this society upon the 26th of October 1792: the draught of the answer seems to have been prepared on the 2nd November 1792; it was to be sent to the editors of the Patriot. The editors of the Patriot were persons who were living at Sheffield; and it will appear by the papers, the substance of which I have not really bodily strength enough to state to you, were affiliated at the same time with the London Corresponding Society, and also with the Constitutional Society, in the propagation of their principles, and this in an extent, which no language can do justice to, which it is impossible to describe to you without reading a particular letter, in which they themselves state their mode of proceeding, and which, for the purpose of informing you in this respect, shall be presently read to you: to one of them the following is an answer, and I beg your attention to it, of the 2nd of Nov. 1792.

"We rejoice with you in the increase of the members of the societies of freedom; our bosoms glow with the sentiments—we are brothers in affection with you, and with the freemen of Stockport"—(who wrote that letter which I before observed upon, which states that nothing can do but a convention, and that their object is a government immediately constituted by the people: that that cannot be while the Crown or the Lords, as you choose to construe the letter, retain their authority)—They add—"Freedom, though an infant, makes 'Herculean efforts'—Now they meant nothing in the world to the prejudice of the monarchy, they meant nothing in the world but a full representation of the people in parliament co-existing with king and lords. They add—"The vipers, aristocracy," that is, persons who have got coats upon their backs—"and monarchy"—we have it yet in England, gentlemen—"are panting and writhing under its grasp: may success, peace, and happiness attend those efforts!"—That

letter, so prepared, will be produced to you, with the corrections of Mr. Horne Tooke, in his own hand.

Gentlemen, I have now gone through, as well as I am able,—and I hope you will keep in view the case I have stated,—the principles and practices of these societies, with all their affiliations. I ought to mention to you, that you will find in the evidence, as it is laid before you, most uncommon industry in picking up fresh connexions. If a paper appeared in the country, stating that a society of any sort was formed, you will find immediate industry to connect them, and affiliate them with the London Corresponding and Constitutional Societies. If these societies professed—as, for instance, the Stockport Society professed—that they would have nothing but a government constituted immediately by themselves, they contrive to give an answer satisfactory to them. If the societies professed attachment to the monarchy, and desired explanation whether they meant Mr. Pitt's plan, which Mr. Paine laughs at—or whether they meant the duke of Richmond's plan—or whether they meant, as a letter, you will hear by and by, says, to rip up monarchy by the roots, you will find they satisfied them all sufficiently to enlist them all for that purpose, which from their own transactions, I state to be neither more nor less, than to do what Mr. Paine did in his book, to combine the principles, which they stated, when the times were ripe for it, with the practices which were correspondent with those principles; to apply those principles, which were alike the principles of these societies and of the French constitution of 1791, and which Mr. Paine, Mr. Barlow, and those addressers to the convention, receiving such answers from the convention in 1792, declared had produced a constitution in France upon the 10th of August 1792, to apply them not to form that, which in its nature is an absurdity, a royal democracy, but that which upon principle is consistent, though it is a wretched bad government, a *representative government*, to be exchanged here in lieu of our limited monarchy, in lieu of our government, under which I state it, with a defiance to the world to tell me that I do not state it truly, that a people never did enjoy, since the providence of God made us a people (you may talk about theories as you please), that they never did enjoy, for so long a time together, such a quantum of actual private happiness and private prosperity, public happiness and public prosperity, under any constitution, as we have enjoyed under the constitution, to the destruction or the support of which it is for you to judge whether such means, as I have been stating to you, were designed to be employed.

The next thing that was to be done, was to go on in strengthening themselves by affiliation; and you will find accordingly that they have connexions at Norwich, Sheffield, Leeds, and other places: indeed, there was hardly a



county, in which they had not affiliated societies, and, if you believe them, to great numbers.

The next step they took was, not that they should have it accomplished—their principles would not let them accomplish it—but it was for the purpose of attaching more and more affiliated societies, that they began now to think, in the year 1793, of making applications to parliament. Gentlemen, in the course of that year, 1793, whilst they are to make applications to parliament, you will find that they distinctly discuss the utility of doing so. The London Corresponding Society, it will be proved to you, take the opinion of the societies in the country with respect to three distinct propositions. Mark this.

Now, gentlemen, in September 1792, the Stockport Society told the London Corresponding Society that there was no hope of doing any thing but in a convention; the London Corresponding Society give the answer that I have before stated. They began to think of this thing called a convention in the beginning of the year 1793, and they propose having communication, on the other hand, from the country societies. They state three propositions—What is it we are to do?—Are we to make an application to parliament?—Are we to make an application to the king?—That would have been, to make application to the king, that he would be graciously pleased, according to the oath which he takes upon his coronation, to give his consent to measures, which were to destroy the government of the country, as it exists, and of himself as a part of it! Or are we to have a convention? You will find, when the whole of the evidence is laid before you, there is a vast deal of discussion about this measure of a convention, there is a vast deal of discussion about applying to parliament. The application to the king is thought futile without more debate; but they come to this determination, that things are not yet ripe: but that the application to parliament, however, may be one means of ripening that which is not yet mature; and then soliciting petitions from all parts of the kingdom, telling those, from whom they ask them, that they do not mean that they should have any effect, that they are all waste paper; canvassing all parts of the kingdom, and getting signatures in the way you will find, they send the petitions to parliament, which, for myself and my posterity, I thank God parliament did not attend to; I mean petitions to introduce a change in the government upon the principle of annual suffrage and universal representation.

They determined for the present that they would content themselves with petitions: that this would occasion a great deal of debate: that that would give them a vast variety of opportunities of discussing the point they had had in agitation since 1792; and, if the public mind was not ripe for a convention in

1793, the proceedings and transactions of 1793, had a natural and obvious tendency, when these transactions were made a proper use of, to bring to maturity the project, not yet come to maturity: you will find therefore that both the London Corresponding Society and the Society for Constitutional Information keep this object in view.

The Norwich Society, upon the 5th of March 1793, write thus to the Society for Constitutional Information, and which you will see had held correspondence also with the London Corresponding Society upon the subject of the same proposition: "It is with peculiar satisfaction that we are favoured with your correspondence,"—they first say—"We wish to find out a method of redress; at present we see a great propriety in universal suffrage and annual elections; but we beg you will be obliging enough to inform us of what you have collected of the sense of the people by your correspondence: we have to inform you that our worthy Corresponding Societies of London have recently submitted three propositions for our investigation; first, whether a petition to parliament, or an address to the king, or a convention."

When I find here the word convention, I think I may address this question to you as men of common sense; if, in August 1792, the London Corresponding Society, by the address which I have read to you, have told you distinctly that they cannot get any redress from parliament, is it not marvellous how it is to be made out in argument, that, in March 1793, they were to have a convention in order to get it from parliament, and more particularly to get it from that parliament, which, upon their own principles was not competent to give it, if they had a mind to take it from parliament?

"Permit us briefly to state our views for your revision; and with respect to the first, we behold we are a conquered people; we have tamely submitted to the galling yoke, and resistance in the present circumstances is vain; we cannot, we cannot act the man; and, as necessity has no law, we think ourselves under that degrading necessity to state our grievances to the House of Commons, with a request for redress; and should they refuse"—which they did—"to grant our reasonable petition, we have still got (no thanks to them)"—here is an accurate, a short description of the affiliated societies—"a formidable engine, that will convey the insult to the remotest parts of the kingdom: as to the propriety of the second, we wish to submit to your superior judgment, and should esteem it a favour to be informed of the result; for at present we are dubious of its good consequences. Lastly, a convention; and oh! that the period were arrived; but in the present state of affairs, alas! it is impracticable; yet this is the object we pursue, and esteem any other means only in subordination to, and as having a tendency to accomplish that desirable end.

"We wish to be in unison with our brethren and fellow labourers, and should be glad of any information, as soon as it is convenient; and we beg your advice whether it is necessary, as soon as possible, to collect signatures to a petition for a real representation of the people?"

This letter, of the 5th of March 1793, having been received from Norwich, you will find that Mr. Frost, who had then lately come from France, and was about that time, I believe, talking of no king in this country, in which it is not yet quite lawful to say so, was thought an extremely proper person to draw up a letter in answer to this; and accordingly it is stated upon the books of the society, that Mr. Frost was ordered to prepare that answer; however, it got into abler hands; for, unless I am again misinstructed, it was settled by counsel, and the substance I will now read to you. It is dated the 16th of April 1793.

"From the secretary of the Society for Constitutional Information to the secretary of the United Political Societies at Norwich.—We have to acknowledge with great satisfaction the letter which you favoured us with, dated the 5th instant, relative to the most desirable of all other objects, the reform of a parliamentary representation. The honour you do us in supposing that we are better fitted than yourselves for the promotion of political knowledge, we must disclaim, because we observe with the greatest pleasure, that our country correspondents have too much zeal and information to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or elsewhere, throughout the nation. In our sincerity for the good of our country we trust that we are all equal, and, as such, we doubt not of our ultimate success.

"We see with sorrow the existence of those evils, which you so justly represent as the streams of corruption overflowing this once free and prosperous country. We see with surprise and abhorrence that men are to be found, both able and willing to support those corruptions. It is, however, no small consolation to find that others are not wanting, in every point of the nation, of an opposite character, who are ready to remedy, by all laudable and honourable means, the defect in our representation, the usurped extension of the duration of parliaments, and other grievances such as you notice in your letter.

"That the constitution of England has no more of that character it once possessed; that the supposed democracy of the country has become a matter of property and privilege; and that we have therefore no longer that mixed government, which our adversaries are praising, when they know it is no longer in our possession, are facts notorious and indisputable: where then are we to look for remedy?"—most assuredly those who had said on the 6th of August, 1792, they would not look to parliament, would not be so in-

consistent as to say that they would look to it in April 1793—"to that parliament of which we complain? to the executive power which is implicitly obeyed, if not anticipated in that parliament? or to ourselves?"

Now, who are ourselves? why, those affiliated societies! "ourselves represented in some meeting of delegates for the extensive purpose of reform, which we suppose you understand by the term *convention*." The Norwich Society writes to the Constitutional Society, and it proposes a convention as the only means of doing this business. The Constitutional Society states that it is to be done only in a convention,—of what? of themselves. Why then, I say, upon the 16th of April, 1793, the Constitutional Society construed the acts of the 20th of January, 1794, which I shall allude to presently, and the 27th of March, 1794, because the Constitutional Society, said that a convention was a convention of themselves, represented in some meeting of delegates,—and for what purpose? for the extensive purposes of reform;—how? by applying to parliament? No. Why, this passage states expressly that the reason why they would have a convention was, because they would not apply to parliament; and can I impute to men of understanding, that are employed in this business, for there are men of understanding enough employed in this business; whether that understanding is properly employed in this business, it is not for me to say any thing about—can I impute any thing so absurd to men of understanding as that they meant to form a convention, which convention should carry their petition to parliament?

"It is the end of each of these propositions that we ought to look to; and, as success in a good cause must be the effect of perseverance and the rising reason of the time, let us determine with coolness, but let us persevere with decision. As to a *convention*, we regard it as a plan the most desirable and most practicable;"—when? so soon as the great body of the people shall be virtuous enough to join us in the attempt? No—but "so soon as the great body of the people shall be *courageous and virtuous* enough to join us in the attempt." You will see whether the interpretation which I give of the word "*courageous*" by the manner in which I mean to express it, is due to it or not, by what I have to state to you.

Gentlemen of the jury, with a view to explain this thing called a convention, as contradistinguished from parliament, give me leave to carry back your attention for a moment to January 23, 1793. In this society, which, in November, 1792, had the correspondence with France, which I stated, in January, 1793, when we were on the eve of a war, and upon the eve of a war which had been produced by the principles which brought fraternization into this country, and took place soon after that decree of November, 1792, you will find that these re-



solutions were come to—"That citizen St. André, a member of the National Convention of France,"—that convention which had deposed a king, as that which could not exist in a government, formed upon the principles of the rights of man, as disclosed by Mr. Paine, his fellow-member in that convention,—"as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this society.—Resolved That citizen Barrère, a member of the National Convention of France, being considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this society.

"Resolved, that citizen Roland, being also considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member.

"That the speeches"—Gentlemen, I particularly request your attention to this—"that the speeches of citizen St. André and citizen Barrère, associated honorary members of this society, as given in the *Gazette Nationale*, ou *Moniteur universel* of Paris, on the 4th, 6th, and 7th of January, 1793, be inserted in the books of this society;"—and, as far as this society could effectuate it, they endeavoured also to have these resolutions, published in the newspapers, and it will be in proof to you that, in the books of the society, it is resolved that each of these resolutions should be so published.

Now, gentlemen, I shall prove to you, by evidence completely effectual for that purpose, what these speeches were, and then, if you will be so good as to ask yourselves what the Constitutional Society, which in January and February ordered these speeches to be published, meant by a *convention* in that letter of the 16th of April, 1793, you will judge whether that convention was to be the means (because they would neither apply to the king, the executive power, nor to the parliament), was to be the means of handing their application to parliament or whether, on the other hand, it was to be the means of introducing by its own force, a *representative government* in this country? that assembly, which you will find, they insist would for the time absorb all the powers of government, which, if it did exist, would delegate its legislative power only so long as they chose to delegate it, a body competent to create a legislature, and possessing within itself an eternal power of reform, an eternal source of revolution. With respect to St. André, speaking to the convention, he says, "Your right to decide the fate of kings arises from your being a revolutionary assembly created by the nation"—a revolutionary assembly created by the nation in such a state is at least that thing, which I think no good Englishman ever will wish to exist to see—"a revolutionary assembly, created by the nation in a state of insurrection."

Speaking of the trial of the king of France, they say, "This proceeding is of the highest importance to public order, absolutely necessary to the existence of liberty, and connected with whatever is held most sacred by the nation.

"The people of Paris"—This is upon the question whether the person of the king be inviolable, a maxim unquestionably true in the constitution of this country, a maxim perfectly consistent with the civil liberties of the people, because, though the king's person is inviolable, he has advisers, who are violable as to every act that he does—"The people of Paris, by making a holy insurrection against the king on the 10th of August,"—that 10th of August, which, in Mr. Frost's letter to Mr. Tooke, was absolutely necessary to the existence of liberty in France—"deprived him of his character of inviolability. The people of the other departments applauded this insurrection, and adopted the consequence of it. The people have therefore formally interposed to destroy this royal inviolability. The tacit consent of the people rendered the person of the king inviolable; the act of insurrection"—I pray heaven defend us from the operation of such principles in this country—"the act of insurrection was a tacit repeal of that consent, and was founded on the same grounds of law as the consent itself; the king's person is inviolable only with relation to the other branches of the legislature, but not with relation to the people."

Now, I ask, what did those gentlemen, who ordered this speech to be published, that the king's person is inviolable only with relation to the other branches of the legislature, when they were talking of conventions, mean? I am sorry to say that my mind is drawn to the conclusion that they thought the king's person was not inviolable with relation to the people, a convention of whom was to be formed, and was to be formed because an application to parliament was useless.

Now, let us see the description of a convention. "A convention differs from an ordinary legislature in this respect: a legislature is only a species of superintending magistracy, a moderator of the powers of government: a convention is a perfect representation of the sovereign: the members of the legislative assembly acted in August upon these principles, in summoning the convention; they declare"—precisely as it is declared in the letter I have been reading to you—"that they saw but one measure which could save France, namely, to have recourse to the supreme will of the people, and to invite the people to exercise immediately that unalienable right of sovereignty, which the constitution had acknowledged, and which it could not subject to any restriction: the public interest required that the people should manifest their will by the election of a National



Convention, formed of representatives invested by the people with unlimited powers. The people did manifest their will by the election of that convention. The convention being assembled is itself that sovereign will which ought to prevail. It would be contrary to every principle to suppose that the convention is not alone exclusively the expression of the general will.

"The powers of the convention must, from the very nature of the assembly, be unlimited with respect to every measure of general safety, such as the execution of a tyrant. It is no longer a convention, if it has not power to judge the king: a convention is a constituent body, i. e. a body that is to make a constitution for the people; a legislature makes laws under an established constitution, and in conformity to it. It is despotism when, in the ordinary and permanent establishment of a state, there is no separation of powers; but it is of the very essence of a constituent body to concentrate for the time all authority: it is the very nature of a national convention, to be the temporary image of the nation, to unite in itself all the powers of the state, to employ them against the enemies of liberty, and to distribute them in a new social compact called a constitution."

Gentlemen, after I have stated that to you, I think I cannot possibly be mistaken when I conceive that you can do no otherwise than put the same construction upon this letter which I did.

I will now take the liberty of calling your attention to a letter of the 17th of May 1793, and the answer of the 26th May 1793, passing over a great many letters, the substance of which you will inform yourselves of by having them read, namely, letters that prove affiliations solicited and granted to Leeds, Tewkesbury, Coventry, and many places in the kingdom, more numerous than I apprehend you will believe, till you see what the number of them is, by evidence actually before you.

Gentlemen, I beg leave now to call your attention, in order of time, to a letter of the 17th May 1793, for it begins a correspondence most excessively material with that part of the country in which the convention has been already held; I mean Scotland;—a convention which, I think I shall satisfy you, did, for the time, act upon the principles that I have stated to you, from the speech of Barrère, as far as it could act, and in which I think, at the moment that I address you, if it had not been stopped in the execution of its purposes, and had been joined by those whose acts we are considering this day, you might have seen, in the speeches of a national convention in Great Britain, a repetition of the language of Barrère, instead of hearing it from me in a court of justice.

Gentlemen, I hold it, in the office that I sit, to be due to the administration of the justice of this country, to say distinctly, if I un-

derstand the case upon which certain persons were tried for the acts which they did in Scotland, that, if they had been tried for high treason, they would have no right to complain; no right to complain if the question upon their conduct had been agitated in that shape before a jury of the country.

Gentlemen, upon the 17th of May, a Mr. Urquhart going from London, Mr. Hardy, and a person of the name of Margarot, celebrated in the future history of this business, join, and write a letter—parliament had, as they expected it would, and as they meant it should, rejected their petition—"The London Corresponding Society eagerly seizes the opportunity of Mr. Urquhart going back to Edinburgh, to request of your society a renewal of correspondence, and a more intimate co-operation in that which both societies alike seek, viz. a reform in the parliamentary representation. We are very sensible that no society can by itself bring about that desirable end: let us, therefore, unite as much as possible, not only with each other, but with every other society throughout the nation. Our petitions, you will have learned, have been all of them unsuccessful: our attention must now, therefore, be turned to some more effectual means; from your society we would willingly learn them, and you, on your part, may depend upon our adopting the firmest measures, provided they are constitutional, and we hope the country will not be behindhand with us."

Now, by "constitutional measures," it is clear that they meant that a convention, as contradistinguished from a parliament, would be constitutional: it is clear they meant it, because they have said it.

Then Mr. Skirving\* writes thus—"Mr. Urquhart did me the pleasure to call on Thursday afternoon, and delivered your letter of the 17th inst. I am much pleased with the contents of it, and shall lay it before the first meeting of our societies here, which, however, does not take place till Monday seven-night. I would have acknowledged the receipt of your favour by yesterday's post, but was too much employed in removing our household to another lodging to attend to any thing else." Now I beg your attention to this, because you will see in the transactions of the people in convention in Edinburgh, that they looked to what they were to do in case of a rebellion as well as any other.

"If either you in England or we in Scotland should attempt separately, the reform which we, I trust, seek to obtain, we should, by so doing, only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking; if we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to

\* See his case in this Collection, Vol. 23, p. 391.



another set; without affecting the vitals adverse to the system of reform, these might be easily accomplished: but to cut up deep and wide rooted prejudices, to give effectual energy to the dictates of truth in favour of public virtue and national prosperity, in opposition to self and all its interested habits, and to withstand and overawe the final efforts of the powers of darkness, is the work of the whole, and not of a part; a work to which mankind till this awful period were never adequate, because never till now disposed to fraternize, not merely or only, I trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence.

"I know no greater service that I can do my country, than to promote the union you so wisely desire: and I am happy to assure you, that I have hitherto discovered no sentiment in our association, adverse to the most intimate and brotherly union with the associations in England.

"I think the minds of all must in the nature of things be now turned to *more effectual means of reform*. Not one person was convinced of the necessity of it by the most convincing arguments of reason, together with the most unequivocal expressions of universal desire. What then is to be hoped for from repetition? I am only afraid that the bow in England against reform was so contracted, that in returning it may break. You would willingly learn, you say, from us—I own that we ought to be forward in this: we have at once in great wisdom perfected our plan of organization, and if we were in the same independent state of mind as the people of England, we would be able to take the lead—the associations with you are no more, I fear—excuse my freedom—than an aristocracy for the good of the people: they are indeed moderate, firm, and virtuous, and better cannot be; but we are the people themselves, and we are the first to show that the people can both judge and resolve, if undirected by faction, with both wisdom and moderation.

"I have not a higher wish in the present exertions for reform than to see the people universally and regularly associated, because I am persuaded that the present disastrous engagements will issue in ruin, and the people must then provide for themselves; and it would be unhappy when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue—we will not need but to be prepared for the event—to stand still and see the salvation of the Lord—let us therefore take the hint given us by our opposers; let us begin in earnest to make up our minds relative to the extent of reform which we ought to seek, be prepared to justify it, and to controvert objections: let us model the whole in the public mind; let us provide every stake and stay of the tabernacle which we would erect, so that when the tabernacles of oppres-

sion in the palaces of ambition are broken down, under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it!"

Gentlemen, these are things all very easy to be understood.

"How hurtful to the feelings of a reflecting mind, to look back to the wretched state in which the Roman monarchy, enfeebled and broken by its own corruptions, left the nations, which it subjected, like sheep without a shepherd; they soon became a prey to every invader, because there was none to gather and unite them; had they, foreseeing the evil, associated for mutual defence, no robber would have been able to enslave them; they would have given laws to all parties, as well as to themselves: all separate colonies and nations would have sought their alliance; but not having virtue to associate, and heal the divisions, and root out the selfish spirit, which ambition-fostering governments procure to their subjects, they fell under oppressions, from under whose iron sceptre they have never yet been able to deliver themselves.

"We may suppose an event, which we deprecate; nay, should we not be prepared for every possible issue of the present unprecedented divisions of mankind, we have a right to be apprehensive of the abilities of our own managers, who are so afraid to depart from precedent, that, like men of detail, they may be inadequate to the task of preserving the vessel from shipwreck, now grappling with danger not only great, but new and uncommon. If the present ministry fail, who after them shall be trusted? It requires little penetration to see the anarchy and discord which will follow; it will be such, that nothing short of a general union among the people themselves, will be able to heal: *haste* therefore to associate, at least to be ready to associate; if, then, such a broken state of things should take place, the civil broils that would necessarily ensue, would soon subside before the united irresistible voice of the whole. Do not, I entreat you, hesitate thinking such a work premature as yet,"—this is written in May 1793;—"but a *month*, and then it may be too late; a malignant party may be already formed, and only waiting for the halting of the present managers; it will then be too late to seek to subject to deliberation, after a party has dared the act of rebellion. If you go no further than separate meetings in different towns, we will not be able to confide in your confraternity, because while in such a state you may be but the tools of a faction; we could have all confidence and unite with all affection in *one assembly of commissioners from all countries of the world*."

Gentlemen, observe that expression; *this letter*, in the beginning of it, speaking with

reference to the war, does not know but the palaces of ambition may be all overset; the pillars will tumble with their supporters. Then it says, "we could have all confidence and unite with all affection in *one assembly of commissioners* from all countries of the world—if we knew they were chosen by the unbiased voice of the people, because they would come up with the same disinterested views and desires as ourselves, having all agreed to a common centre of union and interest; but we could not confide in fellow-citizens, who kept aloof from such union, and would not previously affiliate in one great and indivisible family."

Gentlemen, I have before told you, that there was a society at Birmingham. Upon the 10th of June 1793, the London Corresponding Society writes to that Society in these terms: "it is with singular satisfaction the Committee of the London Corresponding Society received your letter; they are very glad to see the spirit of freedom springing up in Birmingham, and they make no doubt but that the zeal of your Society and the increase of your numbers will soon do away the stigma thrown on your town by the unjustifiable behaviour of a Church and King mob: we are entirely of your opinion with regard to the necessity of a *general union*, and we believe, as you do, that when once the country shall have so united,"—what then? "*the Heroes of the day will be forced to yield to the just demand of a long and sore oppressed people.*"

Gentlemen, the political societies at Norwich also write to the London Corresponding Society with respect to this Convention upon the 25th of June 1793, in which they say, "we also received your friendly letter prior to that wherein you stated three propositions: first, a petition to his majesty, or to parliament, or a national convention; and ordered one of our committee to answer it; should be glad if you will inform me whether it was attended to. I gave my opinion on the subject to the Constitutional Society of London, and found their ideas congenial to my own,"—that alludes to the letter they wrote him,—"*viz. an address to the king—futile; a petition to parliament (as a conquered people)—tolerable; a national convention (if circumstances admitted), best of all.*"

Gentlemen, you will find that, upon the 28th of June 1793, whilst these societies were holding so much correspondence with respect to this national convention, as the only effectual means, it was thought an address to the nation should be prepared: that is not immaterial, because you will find afterwards, that the project of a national convention in Scotland was thought by many of the members of it, and many of the members of those bodies, to have failed for want of such a previous address to the nation; and upon this occasion two gentlemen are brought together, I do not know whether one of them

at that time was a member of the society or not, but two members are brought together, Mr. Horne Tooke and a person of the name of Yorke,\* who, you will find, was a delegate to the convention in Scotland, and who you will find has acted a considerable part in other parts of this country, were to be employed in preparing that address.

Upon the 6th of July 1793, a letter having been received from the political societies at Norwich, the answer, signed by the prisoner at the bar, is given in these terms:

"Fellow-citizens, the London Corresponding Society have received, and read with pleasure, your letter of the 25th of June; but the answer, which you mention to have been made to our three questions, has not yet come to hand; we shall be glad to be informed by your next whether it was ever put in the post-office.

"With regard to the questions themselves, however individuals may have made up their minds on them, the public seemed most to approve the mode of petitioning parliament."

Then it states the effect of the petitions. "Exhorting you therefore to throw aside all unavailing complaint, we wish you to occupy yourselves in instructing the people, in introducing and maintaining order and regularity in your own society, and in forming a junction with all others associated for the same purpose throughout the nation, by keeping up a constant correspondence with them; but, above all, *orderly and courageously preparing yourself for the event,*—

"for, as it is natural to suppose that those, who now prey on the public, will not willingly yield up their enjoyments, nor repossess us of our rights without a struggle, which by their behaviour in Ireland,"—that alludes to the bill in Ireland to prevent a convention,—"*we have some reason to think they are meditating, and perhaps may intend to effect by means of those very foreign mercenaries, who are now paid by the sweat of our brow, and whom, under some plausible pretence, it would be no difficult matter to land on our shore: it may be more advantageous to humanity to show them at first that their opponents are neither mob nor rabble, but an indignant oppressed people, in whom is not yet entirely extinct the valour of their forefathers.*"

Gentlemen, in a letter to Hertford, which is written by the same Corresponding Society, upon the 31st of July 1793, and which Society at Hertford had desired to know their principles, they state themselves in the same manner;—"We receive with pleasure your assurance of co-operating with us for a reform in parliament, an object to which all our endeavours tend, and on which our hearts are invariably fixed; but as your declaration that you will not pledge yourselves to demand universal suffrage and annual parliaments, is followed by no specific plan of reform of your

\* See his trial, A. D. 1795, *infra*.



own, we are under some difficulty how to conclude; perhaps, as *strangers*, you write to us with that *prudent reserve* which is sometimes necessary, and that idea receives strength from your appearing afterwards convinced that the common object of the two societies is the same, which we readily admit; but, as mutual confidence is the basis of union, and the only rational pledge and support for co-operative exertion, we trust your next will do away every difficulty.

"With respect to universal suffrage and annual parliaments, a mature conviction of their justice and necessity for the preservation of liberty and prosperity to the great body of the people, and for securing the independence of parliament, was our primary inducement to associate. We therefore candidly assure you, that these our principles, as already announced to the public, remain immutable, disconnected with any party whatever: we can consider no reform radical, but such as will enable every individual of the community to enjoy the advantages thereof equally with ourselves; for, if ignorance of the nature of government, or the merits of the candidates, be an argument against universal suffrage, as our opponents pretend, the same reasons would equally incapacitate a great majority of those who now enjoy that privilege, to the exclusion of very many thousands, much better informed than themselves; not to mention that, under a more equalized mode of government, the people would be at once induced and empowered to improve themselves in useful knowledge. In a word, we know no principle, consistent with justice or reason, by which we could exclude conscientiously any part of the community from an equality of rights and privileges, which every member of society, as he contributes to its support, ought equally to enjoy.

"With respect to annual parliaments, we will just remark, that good members may be re-elected, whilst twelve months we think fully sufficient for the welfare of millions to remain at the mercy of a bad representative. Having thus unequivocally stated our principles, we shall conclude by observing, that the bill just passed in Ireland is of a nature to awaken the jealousy of every friend to freedom and humanity—will render every exertion justifiable, should a similar attack upon constitutional freedom be attempted here."

In October 1793, the Scotch Convention having met, of which we have all of us heard so much out of this place, you will find that a letter had been received from a Mr. Sinclair,\* together with an address from Skirving, who was secretary to the Convention and Friends of the People in Scotland, by the London Constitutional Society; an extraordinary meeting of the Society was therefore called, at the Crown and Anchor, to consider the utility and propriety of sending delegates to

a convention of delegates of the different societies in Great Britain, at Edinburgh, for the purpose of obtaining a parliamentary reform.

Upon the 28th of October 1793, this society came to a resolution to send delegates to that convention, and the two persons elected were Mr. Sinclair and Mr. Yorke; and perhaps one cannot state a more striking instance of the extraordinary power of a small society, affiliating itself with societies, spread all over the whole kingdom, than by stating that Sinclair, who was deputed from this society, meeting with other delegates in Scotland, had no difficulty of assuming with others the title of a delegate to the British Convention—to assert their right to do acts in contradiction to the legislature—than by telling you that this Yorke and Sinclair were deputed from this society by a poll, in which he, who had the majority, had seventeen votes only; Mr. Yorke and Mr. Sinclair are accordingly sent down, and they go with all the delegation of the power of the people, which this Constitutional Society, thus affiliated, could give them, and what they thought it was you will see presently.—The London Corresponding Society was not to be backward in forming this Convention in Scotland—and, accordingly, you will see in the evidence, which I have to state to you, a considerable deal of contrivance on the part of the prisoner at the bar, in order to bring about that convention in Scotland; for, gentlemen, he writes a letter to the Norwich Constitutional Society, which deserves your very serious attention, in which he expresses himself thus—"We have to acknowledge, at once, your favours of the 3rd of September and 14th instant; multiplicity of business prevented my answering your first, but will now inform you that the spirit, shown in it, gave great satisfaction to our society at large. The rejoicings for the capture of Valenciennes were not confined to Norwich alone: the ignorant every where else throughout the nation betrayed their imbecility on the occasion—the taking of a town, the slaughtering of thousands of human beings, the laying waste whole provinces, or the enslaving a nation (however great evils they may be), can only retard for a small space of time the progress of truth and reason. Be not disheartened therefore; pursue your plan, instruct mankind, and constitutionally set your faces against existing abuses; be assured that many are our friends, who only wait a favourable opportunity to openly join us, while our enemies have much enfeebled themselves and their cause by their arbitrary exertions; despotism is at its last gasp—one or two campaigns more will terminate its existence.

"We are glad to see that you begin to make a proper use of delegation; where bodies of men are too numerous to be convened easily on every occasion, delegation is the best, and indeed the only way to obtain

\* See his case, *supra*, Vol. 23, p. 777.



the general opinion. Scotland, improving on this idea, have not only summoned their own delegates, but also invite those of every other society to attend a kind of convention" (as if Mr. Hardy knew nothing about it), "which is to be held at Edinburgh on the 29th instant—the enclosed paper, which I, previous to the communicating your letter to our committee (which will meet only to-morrow), make haste to transmit to you, will show you that your society is included in the general invitation to send delegates to that meeting, which we exhort you to do, if you possibly can; I firmly believe our society will not miss the opportunity of doing the same."

Now you will find that, upon the 5th of October 1793, Hardy, who wrote this letter upon the 17th, wrote to Skirving in this way—"With pleasure I peruse your favour of the 2nd instant, but, as yet, have seen nor heard nothing of the two copies of Mr. Muir's\* trial, which you mention as being sent to the society and to myself—be kind enough, notwithstanding, to return that gentleman thanks for his polite attention, and assure him that we view him in the light of a martyr to freedom, as well as Mr. Palmer,† and that our warmest hopes are, that the oppressors of mankind will either be ashamed or afraid of carrying their revengeful malice into execution."

"The General Convention, which you mention, appears to Mr. Margarot (to whom alone I have communicated your letter) and myself to be a very excellent measure, and as such, I could wish you, without delay, to communicate it officially to our society without any ways mentioning that you have written to me privately—In your official letter you should require us to send a deputation to that meeting, I have no doubt but our society would, with pleasure, accept the invitation; and I am persuaded it may do much good.—Our freedom, as you justly observe, depends entirely upon ourselves; and upon our availing ourselves of this opportunity, which, once lost, may not be recovered so soon. I am glad to discover by your testimony that I was by no ways mistaken in the high opinion I always had of Lord Daer's patriotism; a title may be a bar to disinterested patriotism, but it seems he has evinced it not to be an insuperable one."

"You are right; it is true, that we have had another general meeting, at which a hastily composed and suddenly produced address to the king was read, applauded, and agreed to be presented; but, on a cool revival, the said address being found to be more ill-natured than spirited, more dangerous in its language, than advantageous in its object, besides being too long, the committee, with the approbation of the majority of the society, have adopted another, much safer, more apposite, and relating solely to the war: enclosed you have a copy

of it; but you was misinformed when you was told we passed any resolutions at that meeting; for we only came to one, and that rather of a private nature, namely, that the conduct of sir James Sanderson, in preventing the meeting of the London Corresponding Society, at the Globe tavern, Fleet street, was of such a nature as to place him below our censure."

Gentlemen, the London Constitutional Society gave their delegates, Mr. Yorke and Mr. Sinclair, certain instructions: and I ought here to tell you, by way of explaining the effect of what I am now to state, that the manner of keeping the books of the London Constitutional Society, as I understand it, was this—The resolutions, made upon one night, were taken upon loose minutes, either by the secretary, or by other persons, who acted in his absence, or in his presence, when he was not doing that duty himself: they were entered, before the subsequent night of meeting, regularly in the book, and the first thing done upon the subsequent night of meeting was to read the resolutions which were made upon the former night, and to see that they were correct: now it will naturally occur that the minutes may explain the book, and the book may explain the minutes: now, when they come to draw the minutes, which you will have for the instruction of their delegates at a convention, which was to be held in Scotland, the first idea was, to instruct those delegates to petition parliament; but they seem to have recollected that that was a measure, which had been abandoned some months before by all the societies with whom they were affiliated: they therefore struck out of their minutes the purpose of applying to parliament, and they send instructions in these words:

"The delegates are instructed, on the part of the society, to assist in bringing forward and supporting any constitutional measures for procuring a real representation of the Commons of Great Britain in parliament—that, in specifying the redress to be demanded of existing abuses, the delegates ought never to lose sight of the two essential principles, general suffrage and annual representation, together with the unalienable right in the people to reform, and that a reasonable and known compensation ought to be made to the representatives of the nation by a national contribution." What they meant by the representatives of the nation, after what I have already read to you, I think you cannot possibly mistake.

The London Corresponding Society are somewhat bolder in the instructions, which they send with their delegates to the convention in Scotland: you will find these instructions are to the following effect:—By article the 1st, the delegate is instructed "that he shall on no account depart from the original object and principle of this society; namely, the obtaining annual parliaments, and universal suffrage, by rational and lawful means."

"2d. To support the opinions that repre-

\* See his trial, *anté*, Vol. 23, p. 117.

† See his trial, *anté*, Vol. 23, p. 237.



sentatives in parliament ought to be paid by their constituents.

"7th. That it is the duty of the people"—now, gentlemen, I beg your attention to this; it is the principle, upon which the convention in Scotland was formed, and upon which it acted: "That it is the duty of the people to resist any act of parliament, repugnant to the original principles of the constitution, as would be every attempt to prohibit associations for the purpose of reform."

Gentlemen, there is no government in this country, if this principle is to be acted upon, because nobody can tell to what extent it will go; and accordingly you will see that these delegates, who went into Scotland, with this authority in their hands, carried the authority far beyond the resistance, which they were authorized to make according to the principles here laid down, and they state a great variety of cases, all approved afterwards both by the London Corresponding, and the Constitutional Society, in which the people, and the convention of the people, were to resist parliament.

Gentlemen, these societies having sent delegates to the convention in Scotland, I proceed now to state that the acts of that convention, to the extent at least to which the delegates from this country were authorized to act, are evidence against those who sent them and therefore against the persons here indicted. But farther, they communicated to the societies here, particularly to the prisoner at the bar, their acts; and the societies here, in distinct resolutions, acting upon consideration, approved their whole conduct: they therefore made that conduct of their delegates in the convention in Scotland, whether it was agreeable to the original authority which was given them, or not, their own; they adopted it by giving it their subsequent approbation.

Gentlemen, you will find, first of all, that they received a letter from the Sheffield Society, affiliating with them, in which it was proposed to determine like Englishmen.

After receiving a great deal of other correspondence, which I will not trouble you with reading, the societies here prepare to send delegates to Scotland. Mr. Skirving sent a circular letter upon the arrival of the English delegates to the delegates of all the associations in Scotland, which were extremely numerous, and very widely extended; and I think the delegates of these different societies came together to the number of one hundred and eighty. After sitting some time, Mr. Margarot, you will find, who was the delegate of the London Corresponding Society, represents to the body there met—"That the societies in London were very numerous, though sometimes fluctuating; that in some part of England whole towns are reformers: that in Sheffield and the environs there are fifty thousand; that in Norwich there are thirty societies in one; that if they could get a convention of England and Scotland called, they might re-

present six or seven hundred thousand males, which is a majority of all the adults in the kingdom."

You will find Mr. Margarot moves, that, previous to publishing an address to the public a committee should be appointed to consider the means, and draw up a plan of general union and co-operation—between what? Not between any societies in the two nations, but a plan of general union and co-operation *between the two nations*. In their constitutional pursuit of a theory of parliamentary reform, they style themselves a convention, and this, gentlemen, is extremely material for you to attend to; they style themselves, "The British Convention of the delegates of the people associated to obtain universal suffrage and annual parliaments." Then I ask what is a convention of the people according to these societies? According to the proceedings in Scotland, a convention of the people is a convention of the delegates from these societies in England and Scotland.

They assert that the people have in them all civil and political authority; and they, repeatedly, again and again, from the moment that this convention was formed in Scotland to the moment of its dispersion, more especially at the time of its dispersion, more especially still from the time of its dispersion till the time of a meeting on the 20th of January, at the Globe tavern; and on the 27th of March, when another convention was proposed, as I stated at the outset, they repeatedly and in the most pressing terms state that *now or never* was the time, when the people were to meet, when they were to act by their own force, when they were courageously to prepare themselves for the event, and to show those whom they called their oppressors and plunderers, that they were a brave people, in whom valour was not extinct.

Having thus met together, upon the principles of the French system, which took place on the 10th of August 1791, they proceed directly to the French practices, which took place then in the National Assembly of France, took place then because the people of France were understood to be represented by a convention; these delegates taking upon themselves also to be a convention of the people, they instituted *Primary Societies*, they divided the country into *departments*, they appointed *provincial assemblies*, they have *Committees of Union*, they thank for *patriotic donations*, they *assume an epoch*, they appoint a *Secret Committee* to be called together upon extraordinary emergencies; and upon the 28th of November 1793, they come to a resolution, to which I must beg your most serious attention.

Gentlemen of the jury, you will remember that they went with authorities, which stated to them that it was the duty of the people, which people they had taken upon themselves to represent, to resist any act of parliament, that should be made for a particular purpose. It is hardly, I think, to be contended, that the

great bulk of the people of this country, happy in their political existence, as undoubtedly they are, remaining happy in their political existence, because they do not feel grievances (till they are taught by malignant industry to believe that they exist), I mean to such a degree as to call for measures of this sort, could believe that the legislature of the country, doing justice to the subjects, whom it is bound to protect, would permit a proceeding of this kind to go on—yet, gentlemen, confiding so much as these persons did in the supposed state of their number in that country, and of those who were to be connected with them in this, you will find that, upon the 28th of November 1793, one of the persons belonging to that convention, citizen Sinclair, I think, the members all standing up upon their feet, for the greater solemnity of the thing, proposes this resolution—“Resolved that the following declaration and resolutions be inserted at the end of our minutes—“That this convention”—now if it be possible to say that any convention means to act as a convention of the people, it is that which sets itself above the legislature in the act it is doing—“that this convention, considering the calamitous consequences of any act of the legislature, which may tend to deprive the whole or any part of the people of their undoubted right to meet, either by themselves or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive of our known and acknowledged constitutional liberties.”—

Gentlemen, permit me to call your attention to this, that this declaration, in its principles, follows the instructions that they had received, that, if any attempt was made to bring in a convention bill, they were then to do so and so. They then proceed thus—“do declare before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act, which shall militate against the constitution of our country”—That is saying, that the will of the legislature is not a better judge of what is an act against the constitution of the country, than the affiliated clubs at Edinburgh—“and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people,” is that a parliament?—“and annual election, until”—what?—“until compelled to desist by superior force.

“And we do resolve that the first notice given”—The first notice—parliament is not even to discuss the thing; but, if an intimation of it is made in parliament—“That the first notice given for the introduction of a convention bill, or any bill of a similar tendency to that passed in Ireland in the last session of their parliament, or any bill for the suspension of the Habeas Corpus act, or the act for prevent-

ing wrongous imprisonment and against undue delays in trials in North Britain, or in case of an invasion”——

Gentlemen, I call back to your recollection the letter of Skirving—I call back to your recollection not only the letter of Skirving, but that the troops of liberty were promised to be sent with bayonets and pikes from that country, which at this moment was likely to invade us—“or the admission of any foreign troops whatsoever, into Great Britain or Ireland”—If the parliament of this country, for the purpose of protecting itself against that foreign invasion, had brought these foreign troops into Great Britain or Ireland, not being the troops of a nation with which we were at war, *this convention of the people* was to act upon the introduction of such foreign troops in the same manner as they would act in case of an invasion by those who were at war with us—What is the construction that follows upon that?—that, even if foreign troops, to meet the exigence of an invasion, were introduced—what then?—“all or any one of these calamitous circumstances”—why calamitous? they might be necessary for the very existence of the country—“shall be a signal to the several delegates to repair to such place as the secret committee of this convention shall appoint, and the first seven members shall have power”—to do what?—to do that exactly, which a national convention in France would do—“to declare the sittings permanent”—why? Because the duly constituted legislature of the country had dared, not to do an act, but to entertain a deliberation upon doing an act—the first notice was to call together this convention, and being called together, their sittings were to be *permanent*.

Gentlemen, are the parties to this convention in Scotland such men, as would think of bringing themselves together to declare their sittings permanent upon such a ground as they state here, namely, the legislature of a great country acting in the execution of the great duties which belong to the legislature of that country, without supposing, by that solemn declaration, that they could make their meeting effectual by the acts which were to be carried on for the purpose of preventing that legislature from deliberating upon such duties? By what acts could it be done but by exertions, as they style them, in the manner of their forefathers, by force? By affiliated societies, exerting their physical strength, that physical exertion, which Mr. Barlow observes is to be preceded or precluded by spreading useful knowledge, and that useful knowledge, being that which is to beat down the existing authority of King, Lords, and Commons.

“The convention therefore resolve, that each delegate immediately on his return home do convene his constituents, and explain to them the necessity of electing a delegate or delegates, and of establishing a fund without delay, against any of these emergencies,



his or their expense, and that they do instruct the said delegate or delegates to hold themselves ready"—

Gentlemen, you see what they expected from the legislature—they knew that what they were doing ought to provoke the legislature to do what they meant to forbid the legislature to do: and they instruct their delegate or delegates to hold themselves ready—"to depart at one hour's warning." Well might Mr. Skirving say, that *a month's delay, and the whole was lost*: well might Mr. Hardy say, what he says in letters I shall produce presently, that if the opportunity is lost now, it is lost for ever—we must act now, or we never can. Having some reason to suppose that this convention would be dispersed, they then with great solemnity come to another resolution:

"That the moment of any illegal dispersion of the British Convention shall be considered as a summons to the delegates to repair to the place of meeting appointed for the convention of emergency by the Secret Committee, and that the Secret Committee be instructed without delay to proceed to fix the place of meeting." Gentlemen, after these resolutions it became necessary to do a little more, that is, to declare upon what principles this convention existed. Now mark the principles, and do your country justice; apply so much of the observations that I have made to you, as are worthy your attention, to what I have before stated as the necessary connexion between the principle and practice of Mr. Paine, and of these societies.

Gentlemen, these principles brought together the French Convention—what is the practice then, that flows out of the principle? Why, it is the assembling of a convention upon principles obliging it to sit for the purpose of declaring that the legislature shall do nothing but what they liked: that is to all intents and purposes a National Convention; if not a convention for an eternal reform, at least a convention, that prohibits the legislature to do any thing but what is agreeable to them. Then having met for the execution of the practice, they proceed immediately to the declaration of the principle—but they do not proceed to a declaration of the principle, till they have done that strong and solemn act, which I have stated: then they resolve "that a committee be appointed to draw up a declaration"—This is France exactly—It is the Southwark Society in 1792—"a declaration of the natural imprescriptible rights of man, and that the same be prefixed to an address to the people of Great Britain. That a committee of observation," that is, for the better effectuating the purpose that they had before declared, "be appointed in London to give the earliest intimation of any motion of the kind mentioned in the foregoing resolutions to the different societies."

You will then find that they met in a place, which they call *Convention Hall*, under the

name of the *British Convention*, and then they are informed that the London Corresponding Society would undertake to be that committee of observation, which, they say, ought to exist—and then you will find that the members mentioned that they had thousands of their constituents in London, Sheffield, Norwich, Leeds, &c. and that the convention was to look at itself as in its true nature a *Committee of the people*—that therefore it was necessary to have, as they have in France. *Primary Societies*, who shall be consulted—in other words, that this committee of the people at Edinburgh, which was to overrule the legislature, was itself to be overruled by these *Primary Societies*, these primary societies themselves being overruled by the leaders of the great clubs, from which they emanated, and so forming in this country a government, under the power of a Jacobin Club, and that government destroying the present existing legislature of the kingdom.

You will also find that, before these persons parted, Mr. Margarot communicated to his constituents the proceedings of this body, which he styles always the *Convention of the People* associated to obtain annual parliaments and universal suffrage. There are letters which I shall lay before you, without detailing them, stating that they looked up to the London Corresponding Society, and the Society for Constitutional Information—that their active exertions were necessary for the accomplishing the projects, which they sitting in Edinburgh were to execute; and then the two delegates of the London Corresponding Society write to Mr. Hardy, as the secretary of that society, an account of their proceedings—they give him an account of that solemn motion, and of the manner of making it, which I have just been detailing to you—they state to him that they had determined to assemble in convention in any such case—that the appointment of the place, which is a circumstance I beg your most serious attention to, was left to a *Secret Committee*; but then they send to him an account of the motion, informing him in the letter—that "letters convey but very imperfectly, and with no great degree of safety, what we might wish to inform each other of."

Now what do you think it is that they do not inform him of in this letter?—They do not inform him in this letter, because letters will not convey every thing safely—that the convention was to meet in case of invasion—that was a secret, which durst not be trusted to correspondence by letter, and because it existed in that motion which was made, every other part of it being communicated even in a letter, they consider it of such a nature, that they determine not to insert it even in their own minutes.

This Secret Committee having been appointed in the Scotch Convention, the fact being communicated to the London Corresponding Society by their delegates, you will



likewise find that Mr. Sinclair, the delegate from the Constitutional Society to the Society at Edinburgh, was not behindhand in the communication of it: he communicates the proceedings, and desires that a secret committee may be appointed in that society. It was not long after this, that the wisely exerted power of the magistracy of that country dispersed that convention. The dispersion of that convention, which, from what I have before stated to you, was conceived to be a body that must then do its work, or its work never would be done, suggested to the societies of this country the necessity of undertaking the same business, of undertaking it at the same hazard, knowing that the project must either then be accomplished, or that it never could thereafter be attempted—for that no government could permit such a convention as this to meet, when its nature was really understood, without taking some means to protect itself against the consequences of the existence of such a convention.

Gentlemen, you will therefore find, that, after they had been dispersed, and after, in consequence of that dispersion, some of them had been punished in Scotland, by sentences which were pronounced upon offences, not stated in the records of that court in so aggravated a way against them as they might, in my humble opinion, have been stated, that it then became necessary that some step should be taken immediately to prevent the mischief which was meditated; for you will find, in the evidence, propositions in these societies about a rescue, which failed; but you will find in their correspondence from Scotland, and their correspondence from those ships in which the members of the Scotch Convention were before they sailed in execution of their sentences, not only the strongest invitations to do some strong acts in this country, to both societies, but, on the other hand, the strongest and most unequivocal declarations by both societies, that these strong acts must be done.

Gentlemen, you will find that before they left Scotland, upon the 11th of December, 1793, there is a letter from Mr. Margarot to Mr. Hardy to this effect—"We received your letter and remittance yesterday, and shall be glad to receive another such without delay."

"The convention you will see has declared itself permanent; they are to sit in some other part of the country, which is not yet declared."

Gentlemen, Mr. Sinclair, the delegate of the Constitutional Society, came to London. I have before observed to you, from a letter of Gerald\* and Margarot, that there were some things that could not safely be conveyed by letter. Margarot writes a letter from Edinburgh to the prisoner, in which he says—"My colleague, Gerald, also proposes to leave this place the latter end of this, or the

beginning of the next week: he will explain himself to you: pray send him money for this journey, &c. He is now gone to *Perth* on very urgent business. Since Sinclair's departure nothing new has occurred, except the formation of a society somewhere about the Grampian Hills"—this shows the spirit of fraternization—"they have already made a subscription towards it: again we are interrupted, and likely to lose the post, unless I dispatch this immediately."

Upon the 22d of December 1793, another letter is written to Mr. Hardy by the same gentleman, which probably led in some degree, to the transactions that I have to state as having passed in January 1794; for, after stating what had happened to himself in Scotland, he says—"Sheffield has on this occasion exhibited a most manly spirit"—The Sheffield Society had at that time sent out some excessively strong resolutions, which I shall give you in evidence in the course of this business—"I am extremely mortified to find so great a difference between them and the London Corresponding Society; it is not however too late. For God's sake send forth some very strong resolutions, and above all, talk of impeachments, and of petitioning the king to remove from their offices those persons who have thus violated the laws of the realm."

You will find from a letter of the 24th of December, that Margarot, a delegate of the London Society, a delegate of Norwich, and a Mr. Brown, who was the delegate from Sheffield, had gone to attend a general meeting of the Society of the Friends of Freedom in East Lothian, and then the expression is—"The time is come that we must show ourselves worthy of liberty, or deservedly lose it. The opposition of our adversaries is demonstration of the propriety and efficacy of the means which we have employed to obtain it."

Upon the 27th of December 1793, you will find Mr. Margarot states that Mr. Gerald was gone to *Perth*; that he himself had been in East Lothian; that they had been well employed; that they must send out spirited resolutions; and you will find, that, upon the 11th of January 1794, Mr. Hardy writes a letter to Norwich relative to the proceedings I have now been stating, the Constitutional Society first, and the London Corresponding Society afterwards, having in their public acts approved every thing that this convention had done. Mr. Hardy's letter runs thus:

"I have just received a letter from citizen Margarot, at Edinburgh, with some of the Edinburgh Gazetteers, where you will see that citizen Skirving is found guilty, and sentenced for fourteen years transportation to Botany Bay. Margarot's trial comes next; he meets it with great firmness and resolution. I have no time to make my comments on the proceedings, but I think our opponents are cutting their own throats as fast as they can—Now is the time for us to

\* See his trial, *ante*, Vol. 23, p. 803.



*do something worthy of men: the brave defenders of liberty, south of the English channel, are performing wonders, driving their enemies before them like chaff before the whirlwind.* Margarot tells me that he has not time to write to you just now, but he hopes to have time very soon, when his trial is over, and immured in a prison. The London Corresponding Society is to have a general meeting, and an anniversary dinner on Monday the 20th instant, at the Globe tavern, Strand."

Gentlemen, you will find that Mr. Margarot, this delegate, with whom Mr. Hardy is thus in correspondence, writes to the Norwich United Societies—"This morning ten ships of war have left Spithead for the channel; and it is here reported, that the Brest fleet is out. Rumour, always magnifying things, says there are seventy sail of the French at sea; if so, there *must be a number of transports among them, and a descent may probably be the consequence—for God's sake, my worthy friends, do not relax in the cause of freedom.*"—Now what connexion had a descent with the cause of freedom?—"Continue as you have begun; consolidate your own societies—unite with others—persevere, and make no doubt, but, sooner or later, your endeavours will be crowned with success."

Gentlemen, I come now to state to you the proceedings of the year 1794, as far as they depend upon written evidence; and it must be a satisfaction to the mind of every man who hears me, that, in the course of this business, whatever observations may arise upon the parol evidence that will be given you, I think you will find so strong a confirmation of all you are to hear in the written evidence that is to be laid before you, that these observations cannot possibly mislead you from coming to the true conclusion upon the whole of the evidence, whatever that may be.

Gentlemen, the Constitutional Society, having sent their delegate to the Scotch Convention, you will find that, at a meeting of the 17th of January 1794, the following resolutions were come to, to which I must desire your particular attention, more especially as there are some circumstances belonging to the composition of those resolutions, which appear to me to be worthy of attention. I have before told you that these resolutions were usually drawn from minutes—the original minutes still exist, and perhaps they show that discretion, with which men are sometimes able to state, in different ways, precisely the same thing: I say, that these resolutions of the 17th of January 1794, were meant to excite the subjects of this country to resistance.

"Resolved, That law ceases to be an object of obedience, whenever it becomes an instrument of oppression.

"Resolved, That we recall to mind, with the deepest satisfaction, the merited fate of

the infamous Jefferies, once lord chief justice of England, who, at the era of the glorious revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people." This is applied to the judges of Scotland, who executed the law upon such facts as I have been stating.—"That those who imitate his example deserve his fate"—this sort of intimation might have a tendency, I hope it had not, to put in any peril those who did, in the regular course, and in the due course, of their judicial duties, pass those sentences, to which these resolutions allude.

"That the Tweed, though it may divide countries, ought not, and does not, make a separation between those principles of common severity in which Englishmen and Scotchmen are equally interested; that injustice in Scotland is injustice in England; and that the safety of Englishmen is endangered, whenever their brethren in Scotland, for a conduct which entitles them to the approbation of all wise, and the support of all brave men, are sentenced to Botany Bay, a punishment hitherto inflicted only on felons.

"That we see with regret, but we see without fear, that the period is fast approaching when the liberties of Britons"—this was in January—"must depend, not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised." Now what is the tyranny? The exercise of the regular government of the country. What is the means by which it is exercised? The application of the force of the country in support of the government of the country. What is this resolution then? Why, that the means which the government takes in the regular exercise of its functions, ought now to be resisted—"We see it with regret, but do not see it with any fear."

That a breach of allegiance was contemplated you can have no doubt, for you will see in the original of this that it stood thus: that, "as allegiance and protection are reciprocal, law ceases to be an object of obedience, whenever it becomes an instrument of oppression."—Couple that, as it stood originally, with the third resolution, and what is it? Why, it is—that the protection, which was due from him to whom allegiance is due, has not been afforded: therefore allegiance is no longer due. "We see with regret, but we see without fear, that the period is fast approaching, when the liberties of Britons must depend, not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised."

You will also find that it stood, "that Englishmen feel the oppression of Scotchmen, which they are determined to resist at the hazard of their lives."—You will find the last

resolution, in the minutes, comparing the genuine representatives of this country, in the House of Commons, with this convention in Scotland, which convention in Scotland had taken upon itself to resolve upon resistance to even a motion, in either House of Parliament of this country, in the execution of their duty, thus :

"That we approve of the conduct of the British Convention, who, though assailed by force, have not been answered by arguments, and who, unlike the members of a certain assembly, have no interest distinct from the common body of the people"—The words originally stood—who "being the incorrupt representatives of *many thousands*, have spoken the language of truth and firmness." Can I make this court the instrument of conveying to the public, what I confess I do most anxiously wish to make it the instrument of conveying to the public, as far as it is fit, in the execution of the duty that I am now discharging, that they may understand what it is that men, when they are scattering these libels through the country, mean—"this convention, assailed by force, have not been answered by arguments"—How was it possible to answer those by arguments, who were coming to solemn and sacred resolutions, which they did not even dare to put upon the face of their own minutes? How were we to answer those by argument, who were working under ground till they had blown up the government, and then say, you cannot point out that we have been acting ill, because we will not tell you how we have been acting?

Upon the 16th, Mr. Margarot writes again, leaving them to pursue what sort of conduct they please.

Then there is a letter of some importance of the 28th of January, which is written to the person who stands at the bar—"We have just received notice from the sheriff to hold ourselves ready to depart at an hour's warning; we go by night; we imagine to Newgate; look out for us."

Gentlemen, you will likewise find a letter from Mr. Margarot to Mr. Hardy, of great consequence, as it explains many of the passages in the evidence between the 20th of January 1794, and the time that those persons were apprehended. Margarot writes from Edinburgh in this manner:—"armed associations are, I perceive, now set on foot by the rich; wherefore should not the poor do the same?"

"Are you to wait patiently till twenty thousand Hessians and Hanoverians come to cut your throats? And will you stretch forth your necks like lambs to the butcher's knife, and, like lambs, content yourselves with bleating? Pray let me hear from you soon. Remember me to Moffat, Muir, and Palmer, and all suffering brethren."

Gentlemen, upon the 20th of January 1794, there was a meeting at the Globe tavern; that meeting, which, you will permit me to observe, Hardy mentioned in his letter of the

11th of January 1794, which I before have spoken of, when he said the London Corresponding Society were to have, a general meeting, and an anniversary dinner. Gentlemen, the proceedings of that day will deserve your very particular attention.

"At a general meeting of the London Corresponding Society, held at the Globe tavern, Strand, on Monday the 20th day of January 1794, citizen John Martin in the chair,"—when I state this to you, I ought to say that I shall prove the prisoner to have been present, or to have been connected with all the transactions that I have been stating—"the following address to the people of Great Britain and Ireland, was read and agreed to: citizens, We find the nation involved in a war, by which, in the course of one campaign, immense numbers of our countrymen have been slaughtered; a vast expense has been incurred; our trade, commerce, and manufactures are almost destroyed; and many of our manufacturers and artists are ruined, and their families starving.

"To add to our affliction, we have reason to expect that other taxes will soon be added to the intolerable load of imposts and impositions, with which we are already overwhelmed, for the purpose of defraying the expenses which have been incurred in a fruitless crusade, to re-establish the odious despotism of France.

"When we contemplate the principles of this war, we confess ourselves to be unable to approve of it as a measure either of justice or discretion; and, if we are to form our calculation of the result, from what has already passed, we can only look forward to defeat, and the eternal disgrace of the British name!

"While we are thus engaged in an expensive and ruinous foreign war, our state at home is not less deplorable.

"We are every day told by those persons who are interested in supporting the corruption list, and an innumerable host of sinecure placemen, that the constitution of England is the perfection of human wisdom; that our laws (we should rather say their laws) are the perfection of justice; and that their administration of those laws is so impartial and so ready, as to afford an equal remedy both to the rich and to the poor, by means of which we are said to be placed in a state of absolute freedom." The paper then goes on and reasons upon the state of the law in this country, under an exposition of Magna Charta, which gives as nearly the true meaning of it as a man would give, who had never seen it.

"If we look to Ireland, we find that acknowledged privilege of the people to meet for the support and protection of their rights and liberties, is attempted by terror to be taken away, by a late infamous act of parliament."—That was an act to prevent convention by delegates with dangerous objects.—"Whilst titles of honour—no—but of dishonour, are lavished, and new sources of con-



ruption opened to gratify the greedy prostitution of those who are the instruments of this oppression.

"In Scotland, the wicked hand of power has been impudently exerted without even the wretched formality of an act of parliament."—A piece of parchment justice they call an act, in the convention of Scotland.—"Magistrates have forcibly intruded into the peaceful and lawful meetings of freemen, and by force (not only without law, but against law) have, under colour of magisterial office, interrupted their deliberations, and prevented their association.

"The wisdom and good conduct of the British Convention in Edinburgh has been such, as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized and made use of as evidence against them, and many virtuous and meritorious individuals have been, as cruelly as unjustly, for their virtuous actions, disgraced and destroyed by infamous and illegal sentences of transportation; and these unjust and wicked judgments have been executed with a rancour and malignity never before known in this land; our respectable and beloved fellow citizens have been cast fettered into dungeons, amongst felons in the hulks, to which they were not sentenced.

"Citizens, we all approve the sentiments, and are daily repeating the words for which these our respectable and valuable brethren are thus, unjustly and inhumanly, suffering; we do associate"—mark the expression—"in order to obtain a fair, free, and full representation of the people in a house of real national representatives."—Now, did the convention at Edinburgh then associate for the purpose to obtain a fair, free, and full representation of the people in a house of real national representatives? if they did, they associated to form that house of real representatives upon this principle, that they were, as Mr. Skirving calls them, the people in Scotland, that they were to affiliate, and to associate themselves with societies in England; and that, in that state of affiliation and association, holding a convention, as they call it, of the people, from delegates of these societies, and not from the people—to do what?—why, to meet as an assembly, which assembly was to control the operations of parliament; of that parliament, which must be the representatives of the Commons of the nation; an expression, which, by the way, they never used, adopting generally terms of a different import, "Real National Representatives."

"Are we also willing to be treated as felons for claiming this our inherent right? which we are determined never to forego but with our lives, and which none but thieves and traitors"—that is, persons acting in the regular execution of the functions of magistracy—"can wish to withhold from us? consider, it is one and the same wrong and corrupting

influence, which at this time denounces in Ireland, Scotland, and England: can you believe that those, who send virtuous Irishmen and Scotchmen, fettered with felons to Botany Bay, do not meditate, and will not attempt to seize the first moment, to send us after them; or if we had not just cause to apprehend the same inhuman treatment, if, instead of the most imminent danger, we were in perfect safety from it, should we not disdain to enjoy any liberty or privilege whatever in which our honest Irish and Scotch brethren did not equally and as fully participate with us? Their cause then, and ours, is the same, and it is both our duty and our interest to stand or fall together."

Gentlemen, recollect the expressions that I read to you from Skirving's letter: "will you wait till barracks are erected in every village, and till subsidized Hessians and Hanoverians are upon us?" You will now see from the proceedings I am stating to you, that the time was come, that they were not only virtuous but courageous enough to do an act, which in 1792 and 1793, though they were virtuous enough to do, they were not courageous enough to do.

"You may ask perhaps, by what means shall we seek redress? We answer, that men in a state of civilized society, are bound to seek redress of the grievances from the laws, as long as any redress can be obtained by the laws; but our common master, whom we serve (whose law is a law of liberty, and whose service is perfect freedom), has taught us not to expect to gather grapes from thorns, or figs from thistles: we must have redress from our own laws."—Were they to be a convention of the people, then, without making laws? They approve the whole conduct of the British Convention, that would not let others make laws, and yet were they not to make laws?

"We must have redress from our own laws," and not from other laws;—the laws of Great Britain are thus described,—"the laws of our plunderers, enemies, and oppressors:" indeed, if the legislature of their country were their plunderers, enemies, and oppressors, in their notions, it would be very difficult to suppose, that they were to have redress from the laws of that legislature; but then it follows, of course, that they meant to have redress from laws made by some other body, that had authority to make laws: and what that other body is, but the Convention which they determine upon, must be left for those to say, who can find it out. They go on then to say,

"There is no redress for a nation circumstanced as we are, but in a fair, free, and full representation of the people."—Now, here again I ask, what is that fair, full, and free representation of the people, not mentioned to be in parliament? but if it was, it would be precisely the same phrase as occurred at the time of the Common-wealth. But they take upon them to approve of the British Convention,



and to unite the two nations of England and Scotland, to be a British Convention formed by delegates from the different societies in this country, and professing to act as a convention of the people; I say, that it is *that species of convention*, which, in their opinion was a *fair, free, and full representation of the people*, in which, and which alone, they hoped for that redress, which they could not hope for from the parliament of Great Britain, those, who were their plunderers, their enemies, and oppressors. Could it be possible for them to suppose, that they could make parliament the willing or unwilling organ of bringing about this representation of the people to subsist by annual suffrage and universal representation? Could it have entered into their imagination that those whom they call their plunderers, enemies, and oppressors, would ever become the voluntary or involuntary instrument of doing that which was the object of all these societies, from March 1791, till they were checked in the execution of their purposes?

Then follows a resolution that will require likewise your very particular attention: "Resolved, That during the ensuing session of parliament the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament and of the administration of the government of this country." This was to be published: they do not therefore venture to insert *totidem verbis* that resolution, which I have stated to you was so solemnly made, and so sacredly sworn to in the Scotch Convention, but they resolve—"that upon the first introduction of any bill or motion inimical to the liberties of the people, such as for landing foreign troops in Great Britain or Ireland, for suspending the Habeas Corpus act, for proclaiming martial law, or for preventing the people from meeting in societies for constitutional information"—What the meaning of the term *constitutional* is we can judge by this time—that upon any express motion of this nature, "or any other innovation of a similar nature; that on any of these emergencies the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith to call a *general convention of the people*, to be held at such place, and in such a manner, as shall be specified in the summons, for the purpose of taking such measures into their consideration." They omit the case of invasion in this publication. But what is this, supposing nothing had passed in Scotland of what I have stated to you? What! Is the legislature, is the rule and government in this great country reduced to this state, that it shall find no protection in the administration of the law of the country against persons, associating and affiliating themselves for the purposes which they declare here? Is no motion to be made in parliament for any purpose, which these societies choose to

comprehend under the terms "any other innovation," without explaining what it means? but what? but that bodies of men are to come together, claiming to themselves the civil and political authority, which exists in the natural and physical qualities of the people, and then to contend that they have got a *convention of the people*?

Now, do they convene the people? In fact, it will be said, nothing like it. But they call themselves a *convention of the people* in the very terms that they use: the summonses are to go to the delegates of each meeting, and also the secretaries of the different societies corresponding with this society, and no where else. For what purpose? To call a *general convention of the people*! Then, what is the meaning of all that, taking it with its context? It is this: from your laws—the laws of you, our plunderers, enemies, and oppressors—we can expect no relief: we do not mean to come to you for any: but we will watch you, and if you dare to propose an innovation of any sort, we shall call a *fair, free, and full representation of the people*. Composed pray how? By delegates from our societies, to seek, as a general convention of the people, redress from our own laws. It appears to me that the reasoning upon this paper is so whole and intire, that it is out of the power of human ingenuity to touch it.

Then they resolve, "That a hundred thousand copies of the Address to the people of Great Britain and Ireland shall be printed." Then they follow this up with the publication of a great many toasts; and really, when one mentions such a thing as toasts in the trial of a great national cause, such as this undoubtedly is, one is afraid of its sinking into insignificance; and yet this is a great feature in this cause. You will find that previously to one of the most seditious meetings which was ever held in this country, it was thought of importance enough that they should meet once, twice, or thrice, in committees, in order to frame toasts, which were best calculated to inflame their minds, and to urge those forward who were already engaged in these projects—"The Rights of Man!"—"The British Convention!"—"Success to the arms of freedom, against whomsoever directed." This is during the war—against whom were the arms of freedom directed, in the opinion of these persons? You remember they said that "the elector of Hanover may join his troops to traitors and robbers; but the king of Great Britain will do well to remember that this country is not Hanover: should he forget the distinction, we will not." They corresponded with the French in October; and in November 1792, they state to you, that the principles of their resolutions are those upon which they meant to act—that Great Britain was now engaged in a war—which they condemned—in which the arms of freedom, as they said, had never been engaged on the part of Great Britain. Then the meaning of the toast is obvious.



Another toast was—"The virtuous and spirited citizens now in confinement for matters of opinion." Now, these matters of opinion are acts all done in the long tissue and detail of a conspiracy to subvert the monarchical government of this country, under its present legal provisions and limitations.

The name of Mr. Frost being mentioned—I mean him no disrespect in saying this—but it is to the purpose of this business to take notice of it—that gentleman was prosecuted in this country for this doctrine—"No king, none in England, I am for liberty and equality every where." What was the consequence of that? The judgment of the law of England upon him was, that he was guilty of an offence: he was punished: he has suffered that punishment, and made an atonement to the law: but these gentlemen, who sent Mr. Frost with Mr. Barlow, to state such doctrine to France, and bring such doctrine back from France, you will find that they have a formal resolution that they will sustain this Mr. Frost in all his persecutions and prosecutions. Does that mean nothing? If Mr. Frost is persecuted for holding doctrines in the country, which were to put the king out of the system, is it no evidence of intention with respect to those who engaged in such projects as I have mentioned, that they do come to a resolution, in which they declare that the law, questioning the propriety of declarations of that kind amounts to a persecution, and that he ought to be sustained against it?

Gentlemen, you will hear from witnesses, who were present, what the proceedings on the 20th of January, and the general complexion and nature of them were. Mr. Martin being in the chair, and Mr. Hardy being present, who was a member of both these societies, an attending member in both of them, I will give you Martin's account of the proceeding on the 22d of January 1794, in a letter in his own hand-writing, sent to Maurice Margarot, at Edinburgh, who had advised you will recollect, the London Corresponding Society to come to some strong resolutions—who had urged that *now is the time, that two months in Scotland would do the business*, provided they did their duty in England.

"My dear sir, I dare say you think I have forgot you from my not having written to you, but you know my sentiments so well that it was unnecessary for me, and would probably have been improper to say much on the subject of your mission"—then he states something about private business.

"We had a meeting on Monday, I was in the chair—the newspaper gives our numbers at 500, but we were nearer 1,500: every thing was well conducted, that is to say regularly, and the proceedings were tolerably bold. Mr. Hardy, I dare say, has sent you a copy of the address and resolution.

"Your conduct receives universal approbation; and though I at one time dreaded the want of money, yet that is now over: those,

who opposed the subscription at first, are now putting their hands to the very bottom of their pockets, and swear by God you shall be supported with the last guinea—we must have another general meeting in a chapel, or some large place, and declare the purpose of a subscription, and I think we shall get plenty of the needful for that and other purposes. Have you read my letter to lord ———? do you incline to try the writ of error? what do the Scotch lawyers think of it, and what do you think of the legal knowledge of my countrymen? I firmly believe that the law is the only science, of which they know nothing.

"The king went yesterday to meet his parliament"—so now we have got no parliament of ours, the people of this country—"they sat till six o'clock this morning: the papers are not out, but I am told only twelve members were for peace: I am glad the minister has so great a majority within doors for the war, and that the people have a greater majority without doors against the war: the swinish rogues had the impudence to write 'No war' on all the doors and corners of the Houses of Lords and Commons, and they had even the audacity to groan and hiss, while his most sacred majesty was passing to and from the House—nay I am told, a woman, moved and seduced by the instigation of the devil, and traitorously intending, &c. did in St. James's Park take off her patten, and threw it with all her force at his majesty, whereby the glass of the state coach was broken, and his majesty put in fear: God save the king, for if, &c.—as Gerrald says"—there he leaves it.

"The society is increasing rapidly, both in spirit and in numbers, and the rich now begin to come among us, and to sit down with pleasure among the honest men with the leathern aprons.

"I could write to you strange things, but I know not but this may be read by somebody before it comes to your hands."

Gentlemen, after this had passed, you will find that that letter was written by the Corresponding Society to the Society for Constitutional Information (which I first mentioned to you) upon the 27th of March 1794, and now with your leave, I will read a part of it to you again.

"I am directed by the London Corresponding Society to transmit the following resolutions to the society for Constitutional Information." I should tell you first, in the order of time, that the society for Constitutional Information distinctly adopt that paper of the London Corresponding Society of the 20th of January 1794, as their own, and order it to be entered upon their books; they approve of the main sentiments of it, and they fully take it to themselves, to all intents and purposes, as if it had been a conjunct meeting of them both. Then, the London Corresponding Society having held this language respecting the convention, and upon the 24th of January the Constitutional Society having adopted the



project of a convention stated in the address of the London Corresponding Society of the 20th, and the nature of that convention being a convention from the affiliated societies, to take upon themselves the character of a *convention of the people*, it would be surprising indeed if the convention, which they speak of on the 27th of March, should be a convention of a different nature from that which they had both agreed to on the 20th and 24th of January—and with that observation I come again to this letter of the 27th of March.

"I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require. The London Corresponding Society conceives that the moment is arrived"—throughout the years 1791, 1792, and 1793, they thought it was not arrived—"when a full and explicit declaration is necessary from all the friends of freedom—whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished on our parts, as the treachery of others in the same glorious cause is notorious. The society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people, whether they concur with us in seeing the necessity of a speedy convention for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labour."

Now, in the first place, with respect to the words "constitutional and legal method," these persons have not much to claim upon the score of the effect and force of the words "*constitutional and legal method*," which appear, through all their transactions of the years 1792 and 1793, and more particularly through the transactions of 1793, as they apply to the British Convention, in Scotland, to be thought consistent with the existence of a convention of such a character as that had; and, if it was their purpose to have a convention of the people, by summonses to affiliated societies, that convention to take upon itself the power of the people, it is in vain that they talk of legal and constitutional methods: it is in vain, if the thing they mean to do, and the manner of doing it, is not legal or constitutional.—Upon this letter, I apprehend, after what has passed, there can be no doubt what is meant by a convention: but it is not left there: for in the third resolution they state, that "there ought to be immediately a *convention of the people by delegates*"—mark the words—"deputed for that purpose from the different societies of the friends of freedom,

assembled in the various parts of this nation."

Then here is a convention of the same character, of the same name, and the same constitution, as that mentioned in the resolution of the 20th of January 1794. Now, to whom is this proposed? It is proposed to that Constitutional Society, which had adopted the address of the 20th of January 1794, and which had also said, by approving that address, that they were of opinion that redress was not to be obtained by the laws of England, but that they were to have redress against their oppressors, plunderers, and enemies, by their own laws—by that sort of *representation of the people*, which is formed by a convention of the people, summoned from those associated societies. Then what follows upon it?—though the thing is couched in phrases that are a little ambiguous, yet no human being, judging honestly, can doubt the meaning of it; it is, that there shall be this convention, to act as a convention of the people, with the power of the people, having or claiming all civil and political authority. The prisoner is sufficiently involved already, if such a convention never had been thought of; but then the two societies form a committee of correspondence and co-operation for the purpose of bringing together that convention, which they had said was the only mean by which Britons could enjoy their liberties, or protect themselves against the legitimate government of the country, including in it their plunderers, enemies, and oppressors.

Gentlemen, when I lay this evidence before you, if I stopped here, I should be glad to learn why this is not a step taken for the execution of such a purpose as I have before stated—a step taken for constituting a body, or a step taken towards devising the means of constituting a body which was, like the convention mentioned in the speech of Barrère, to supersede the legislature, to depose the king, to suffer him to have no existence, but what their good will and pleasure would allow him, against the will, as the language of the indictment states it, and in defiance of the authority of the parliament—to depose the king—for, if these people have the sovereign power, and they must have the sovereign power upon their own principles—the king of England cannot have it in the manner in which it is vested in him now. He was bound to resist such a project as this: he owed it to every good subject in his country to resist it—he was sworn to do it by the solemn obligation of his coronation oath—you cannot therefore contemplate a case of his acting otherwise—the king being bound to resistance for the security of the subject, and for the sake of observing his oath, for the sake of continuing to reign according to the terms of that oath, according to the statutes agreed upon in parliament assembled, and the laws and customs of the same.

But, gentlemen, I do not stop here: you will find also that there was a meeting at



Chalk Farm, the particulars of which I will not state farther than to say, that, when they are read, you will see that that meeting at Chalk Farm was a step taken in the farther prosecution of the functions of that committee of co-operation—that it was a measure taken for the express purpose of trying the temper of the people, of seeing what they could do by numbers. That meeting was held in April 1794, and it is very remarkable that it appears that there were meetings in other parts of this kingdom; more particularly it appears from a letter, found in the possession of this prisoner, that, as there was a meeting in the open air at Chalk Farm, so there were meetings elsewhere—it required vigilance—it required the interposition of some strong hand, by parliament or otherwise, to preserve you in the situation in which you now are: if it be the will of these persons that you shall not remain in it, it is at least the duty of those, who are to watch over the country as long as it can exist, that it shall not be destroyed by any fault of theirs: but you will find there were meetings in the open air at Leeds, Wakefield, Huddersfield, Bradford, Birstal, and at various other places. This project of a convention had been communicated to many parts of the country, and too many of them had assented to it; not only assented to it, but it will be proved, that the prisoner sent a circular letter to the remotest parts of this kingdom (which I will now read), for the purpose of assembling this convention, for the purpose of carrying into effect the project of this British Convention, the body of which had been dissipated, but which was still carrying on its purposes by measures precisely the same as those which had existed in this part of the island.

You will find that the prisoner writes this circular letter to all those societies; and the addressing this circular letter to all the societies, shows that the convention that was to be called was not to be a convention of the people at large, but a convention of delegates summoned from those societies, to usurp the character of "*a convention of the people*."—"The critical moment is arrived"—mark the difference of language; in 1793 the time is not yet come, men are not virtuous nor courageous enough; in 1792 they expected nothing from parliament; in 1793, they expected every thing from the societies in due time; and now they assert that the due time is come, that the fulness of time is come—"the critical moment is arrived, and Britons must either assert with seal and firmness their claims to liberty, or yield without resistance to the chains that ministerial usurpation is forging for them. Will you co-operate with us in the only peaceable measure"—a very peaceable measure a convention of this sort!—"that now presents itself with any prospect of success? We need not intimate to you, that, notwithstanding the unparalleled audacity of a corrupt and overbearing faction"—now this corrupt and overbearing faction is the King, Lords, and Com-

mons of Great Britain—"which at present tramples on the rights and liberties of the people; our meetings cannot in England be interrupted without the previous adoption of a convention bill." A convention bill!—this shows the reason for their resolutions in Scotland about permanent sittings, and the meeting of another British Convention, and for their language, which they held upon the 20th of January 1794; "a measure it is our duty to anticipate"—mark these words—"our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared"—What was their object in this circular letter? If, when the British Convention in Edinburgh sat, there had been a motion for a convention bill in the parliament of Great Britain, why, their object was then, we perceive, that of being ready at an hour's warning; communicating in all parts of the kingdom to their delegates that solemn resolution, which had been made in the British Convention upon the 6th of November; they were instantly, before the project of such a bill could in parliament ripen out of notice of a motion into a bill once read, to be assembled in Edinburgh to prevent any such bill passing; they solemnly vowed to each other, hand in hand, and standing up, to give the greater solemnity to the declaration, "that the moment such a bill as that was introduced into parliament, they would resist it at the hazard of their lives." Then what did they mean in this circular letter? they meant that, while as yet the bare expectation of a convention bill might exist, while, as yet, no notice of such a motion was given or heard of in parliament—that it was their duty to anticipate what parliament might possibly think of. How to anticipate it?—to anticipate it by means of a convention assuming the character of a British Convention of the people, but delegated from those societies, to sit not at Edinburgh, but to sit at a place, as you will find, which they durst not name, and for the purpose of conducting this project with more security, as you find by this letter, to sit at a place that was to be kept secret, in order that the purpose might not be disappointed. "A measure," they proceed, speaking of a convention bill, "it is our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared, while it is yet in our power, so as to guide and direct the future operations of the friends of freedom. Rouse then to one exertion more, and let us show our consciousness of this important truth; if we are to be beaten down with threats, prosecutions, and illegal sentences, we are unworthy, we are incapable of liberty; we must, however, be expeditious; Hessians and Austrians"—here is the idea that came from Scotland again—"are already among us, and if we tamely submit, a cloud of these armed barbarians may shortly be poured in upon us."



The introduction of sick men into this country for the humane purpose of giving them that air, which they could not obtain while on board a ship, is made the pretext of this letter for stating that "Hessians and Austrians are already among us, and, if we tamely submit, a cloud of these armed barbarians may be poured in upon us. Let us form then another British Convention." What was that convention? they expressly state it to be a convention of the people, and a convention, which is to assume controlling powers over the legislature. "We have a central situation in our view, which we believe would be most convenient for the whole island, but which we forbear to mention (entreating your confidence in this particular) till we have the answer of"—whom?—"of the societies, with which we are in correspondence." What, is that a convention of the people? or of the societies assuming the character of a convention of the people? "Let us have your answer then"—Now, give me leave to observe how nearly this project was to being carried into effect—"Let us have your answer then by the 20th at farthest, earlier, if possible, whether you approve of the measure, and how many delegates you can send, with the number also, if possible, of your societies."

Gentlemen, this will be proved to you to have travelled as far as Strathaven, to have been received there, and delegates to have been appointed in consequence of the solicitation; and then, as in the British Convention, in the month of November 1793, this great project of calling together a body, which was to put an end finally to the existence of parliament, was to be conducted by a secret committee; because its operations, its assembling, and the means which were to be taken for it, could not be committed to numbers, a secret committee was then appointed. This letter ends—"for the management of this business we have appointed a secret committee: you will judge how far it is necessary for you to do the same."

Gentlemen, the next proceedings were at Chalk Farm. In these proceedings, it appears, they had stated to the Society called "the Friends of the People," this measure of a convention; that measure the Friends of the People refused to agree in. You will find that, refusing to agree in that measure, at the meeting at Chalk Farm, when it was stated that the Society of the Friends of the People would not agree in it—indeed, agree in it they could not—you will find what was the reception, which the communication of that information met with—an universal groan from a large body of men, amounting, I believe, to a couple of thousand there assembled.

Gentlemen, this committee of correspondence and co-operation, you will find, met; you will find that there is in the hand-writing of the prisoner, in a very short note, an account of what was done when they met; that one of the first steps towards the accomplish-

ment of their purposes, was a communication of the correspondences of the country societies to those who were to be the delegates of the Constitutional Society; but the meeting was broke up by the apprehension of the prisoner and others, which has led, as I before stated, to this prosecution.

Gentlemen, I have before told you that I conceived it was competent for me, as indeed I apprehend without question it is, after proving the conspiracy, to show the conduct of the persons, who were parties in that conspiracy, in furtherance of the conspiracy, when it is proved. You will find that one of the persons who attended the meeting of the 20th of January 1794, and who was a very active member of the London Corresponding Society, and likewise one of the committee of correspondence and co-operation, which I have alluded to as the final act of this business, gives himself this account of the transactions of the 20th of January 1794, and of other circumstances: this is Mr. Thelwall.

"It is with infinite satisfaction that at last I received a letter from you; it was brought this morning by citizen Lee, and has been delayed, I understand, this fortnight at Rotherhithe by some accident.

"I am too well acquainted with mankind to be surprised, too much of a philosopher to be angry at the abuse and misrepresentation of mistaken men; but I shall endeavour, as I wish to preserve the good opinion of a man whom I remember with esteem, to send you such printed documents as will prove to you that, instead of having deserted the cause of liberty, I have redoubled my zeal, and that there is not at this time in England a man that goes bolder lengths, and exposes himself to more danger, in the cause of liberty, than myself. I have been for four or five months past almost the sole labourer upon whom the fatigue, the danger, and the exertions of the London Corresponding Societies, the only avowed Sans Culottes in the metropolis, have rested; and have been otherwise so active in the cause, as scarcely to have passed a week without threats and conspiracies from the government and its purblind adherents. Ever since the famous, or infamous, call it which you will, proclamation of November, 1792, I have been frequenting all public meetings where any thing could be done or expected, have been urging and stimulating high and low, and endeavouring to rally and encourage the friends of freedom. I have been constantly sacrificing interest and security, offending every personal advantageous connexion, till ministerialists, oppositionists, and moderate, hate me with equal cordiality, and, if I may judge by their conduct, fear me as much as they hate.

"For these four months, I have been giving political lectures and printing, and appropriating the whole receipts, till the last fortnight, to the support of our delegates to the British Convention; for the history of which I was



refer you to citizen Talbot, whom I have not seen, but whom I hope to see before he leaves England."

He then gives an account of the meetings I have been stating to you, and of his lectures: then he says,

"Adieu. I will collect together what political papers I can, to send to you when I can find leisure. Do write to me; let me know something about the state of politics and society in America. I fear you are somewhat short of the true Sans Culotte liberty; that you have too much veneration for property, too much religion, and too much law."

"I fear you are somewhat short of the true Sans Culotte liberty." Now, that is, that you have too much veneration for property, too much religion, and too much law.

Gentlemen, having now gone through the written evidence, I am to state to you some other circumstances. I have not indeed stated all the written evidence, because you will have written evidence laid before you of stimulations, under singular pretexts, to these societies, to arm themselves. You will find, for instance, that if a debate happened in that parliament, where they meant hereafter to suffer no debate, about the Hessians and Hanoverians, they circulated among them papers, and it will be brought home to those with respect to whom it is stated, to this effect—"The ins tell us we are in danger of invasion from the French; the outs tell us that we are in danger from the Hessians and Hanoverians: in either case, we should arm ourselves. Get arms, and learn how to use them."

You will likewise find, upon this part of the case, that, after the dispersion of the British Convention in Edinburgh, after it was seen that the law of this country was strong enough to beat down a conspiracy of that kind, acting by their mere naked numbers, that it became then, in their opinion, necessary to the accomplishment of their purpose, to act with arms.

Now, gentlemen, where a general conspiracy of this sort, among affiliated societies, existed in Scotland, Sheffield, Norwich, Manchester, and various parts of the kingdom, all aiming at the same end, all acting upon the same principle, all involved in the same project of having a convention from the different parts of the united kingdoms, it is natural that they should think of arms: but, if the conspiracy did not exist, it would seem a very odd thing that it should happen in fact, that, in these different parts of the kingdom, in Scotland, in Sheffield, and in London, we should find persons preparing arms of a sort, and of a denomination, which of late years we have not heard of in this country, except as existing in France, and except as stated in a letter from France, which I have read to you.

But, gentlemen, you will find, from the evidence I have to offer, and indeed it is not

surprising that you should so find—after I shall tell you, that in the pocket of one of the parties in this conspiracy, and distributed also in divisions in the London Corresponding Society, were papers, importing that upon the 1st of April, 1794, was to be performed, "The Guillotine, or George's Head in a Basket;" papers in which the sacred person of the king is so spoken of, and in which all orders of men, under ludicrous representations of them to their country, were doomed to lamp-irons, and to suspension; after I shall tell you, that I am instructed that Mr. Thelwall could, when retiring from Chalk-farm, take a pot of porter in his hand, with a knife take off the head, and say, "Thus I would serve all kings;" if you should find such language used, I am persuaded you will not be surprised to find pikes in the hands of these men and their associates—to find muskets in the hands of these men and their associates. Do not, gentlemen, let us be misled by the great doctrine of the Bill of Rights, that every man has a right to arms for his own protection—he has without question a right to convenient arms for his own defence; but the point before a jury will be, for what purpose had he the arms? If he attempts to say that he had them for his own defence—if had he them in fact for a worse purpose, the attempt to colour the fact makes the fact more criminal.

Gentlemen of the jury, you will find that Mr. Yorke, in the month of November 1793, will be proved to have been at one of the divisions of the London Corresponding Society, stating, that he was going among the sons of liberty into Belgium, to bring into this country the true friends of liberty. You will find that he was a member of the London Corresponding Society, and constituted a delegate of the Constitutional Society to Scotland; that he has been propagating at Sheffield the same doctrine, as his brother associates were propagating in London: that he was there directing the form in which pikes should be made, to persons who were to make such instruments; that the persons at Sheffield enter into a correspondence with the prisoner at the bar; that they inform him that these pikes are made; that he delivers the direction to persons of the Corresponding Society, in order that they may furnish themselves with these instruments; and that they were to be furnished from Sheffield to a place here, I think, the Parrot, in Green Arbour alley, or some other place in this town; and that, if the apprehension of these persons here, and at Sheffield, had not put an end to the farther execution of the project, there would have been a large importation of these pikes into this part of the kingdom.

Gentlemen, you will find that this idea of arms was carried farther; you will find that, for the use of this society, a plate with figures, showing the manner of learning the military exercise, was engraved by a Mr. Worship, a



member of this society. You will find that there was a military society in Lambeth, and another in Turnstile, Holborn; they were small in their beginnings, I admit; but these things must be so in their beginnings; and you will find, that the prisoner at the bar gave to a witness of the name of Edwards, a direction of whom to obtain pikes at Sheffield. Mr. Williams, another witness, who will be called to you, who is a gun-engraver in the Tower, made muskets for the use of these societies in Lambeth, and in Turnstile, with an express protest that he should not be employed, unless he himself became a member of the societies. You will find accordingly that he did become a member of them. You will find that they drilled at particular places. Gentlemen, I give you this outline of this part of the evidence, because I do not wish to enter more into the particulars, than to give you a general impression of the nature of the case which I have to lay before you.

You will likewise see, what is natural enough to happen, when you find in the book of the Society for Constitutional Information, that Mr. Horne Tooke could think of giving notice, that he would move "that two books should be opened, one of them (bound in black) in which should be entered all the enormities of those who deserve the censure; and in the other, the merits of those who deserve the gratitude of the society." You will not be surprised, if you should find persons in these affiliated societies, of lower descriptions, holding conversations about seizing the most august persons in the nation; if you should hear of their holding conversations about the situation of persons in the House of Commons, and the means by which they could know their persons.

Upon the whole, gentlemen of the jury, I shall now lay the testimony before you, submitting this written evidence to you, calling witnesses, above all exception, to a great part of the case; calling some witnesses, whom I now avow to you, you will find, were persons employed by government to watch over the proceedings of these societies, and who therefore became informed, in consequence of such employment, of some of their transactions; and government would have been wanting to itself, and would have been wanting to a degree of criminality, which no man can describe, if this country had at this moment been in the state in which it would have been, if these pikes had been brought into actual exertion.

At Sheffield, indeed, I am told they had got in the length of forming iron instruments, which were to disable horse, which they called night-cats, and which would immediately insert themselves into the hoofs of horses feet. I say, if, with these projects going on in the country, a secretary of state, or any other person in the executive government, had hesitated a moment to procure information, these parties might have been able to put into execution the projects they were me-

VOL. XXIV.

ditating, and he would have been answerable for it.

Gentlemen, it is the great province of a British jury, and God forbid these prisoners should not have the benefit of the reflection, that British juries are able to protect us all—are able to sift the characters of witnesses—to determine what credit is due to them—listening to men of good character without any impression against their evidence—listening to men, such as I have stated, with a strong impression against their evidence; that impression, however, to be beat down by the concurrent unsuspicious testimony arising out of the rest of the case, if, upon the whole you shall find the case to be made out as I have stated it to you.

Gentlemen, I forgot to mention to you, that you will likewise find, about the time that this convention was talked of, that there was a new constitution framed for the Corresponding Society, in which they speak of a royalist as an enemy to the liberties of his country—of a democrat, as a friend to the liberties of his country; and you will find, that, in a constitution again revised, the whole was thrown into a scheme, and into a system, which was to add physical strength to the purposes of that convention, which was, I submit to you, to assume all civil and political authority.

If you find all these things, and, if under the direction of that wisdom that presides here, with respect to which, gentlemen, let me say again, that the situation of this country is indeed reduced to a most miserable one, if the respect, which is due to the administration of the law, is suffered to be weakened in any manner, if the respect, which is due to the administration of the law, that administration, which perhaps is the best feature of the constitution under which we live, is destroyed, miserable indeed must be the situation of your country! If you find under that direction that the case, being proved in fact, is also made out in law, you will do that on behalf of the public which is due to yourselves, to the public, to your posterity, and theirs.

But on the other hand, if, after hearing this case fully stated, and attempted to be fully proved, you should be of opinion that it is not proved, or you should be finally of opinion that the offence is not made out according to the *hallowed* interpretation of the statute of Edward 3rd; I say then, in the conclusion, I join, from my heart, in the prayer which the law makes on behalf of the prisoner, God send the prisoner a safe deliverance!

#### EVIDENCE FOR THE CROWN.

Mr. Thomas Maclean sworn.—Examined by Mr. Bower.

What are you?—One of his majesty's messengers.

Did you at any time go to the House of a Mr. Daniel Adams?—I did.

2 B



When did you go to Mr. Adams's House?  
—On the 12th of May last.

Did you seize any books or papers there?—  
Both books and papers.

What did you do with them?—I kept them  
in my own possession till I had marked them  
all.

Look at this letter, signed T. Hardy, and  
tell me whether it is one of the papers you  
seized in Mr. Adams's house?—It is.

*Alexander Grant sworn.*—Examined by Mr.  
*Bower:*

Do you know the prisoner at the bar, Tho-  
mas Hardy?—Yes.

Have you ever seen him write?—I have seen  
him write.

Do you know his hand-writing?—Yes.

Look at that letter, and tell me whether  
you believe it to be the prisoner's hand-  
writing?—I never saw this letter, so I cannot  
say.

Do you or not believe it to be his hand-writ-  
ing?—I cannot take my oath to it.

I am not asking you to say certainly, but  
according to the best of your belief is that  
his hand-writing?—I cannot take upon me  
to swear that it is his hand-writing.

You are not asked to swear that it is his  
hand-writing, but whether you believe it to  
be his hand-writing?—I believe it to be his  
hand, but I cannot swear it.

[The letter read.]

"To the secretary of the Society for Con-  
stitutional Information.

*March 27, 1794.*

"Citizen;—I am directed by the London  
Corresponding Society to transmit the follow-  
ing resolutions to the Society for Constitu-  
tional Information, and to request the senti-  
ments of that society respecting the impor-  
tant measures which the present juncture of  
affairs seems to require. The London Cor-  
responding Society conceives that the moment  
is arrived when a full and explicit declaration  
is necessary from all the friends of freedom,  
whether the late illegal and unheard-of pro-  
secutions and sentences shall determine us to  
abandon our cause, or shall excite us to pur-  
sue a radical reform with an ardour propor-  
tioned to the magnitude of the object, and  
with a zeal as distinguished on our parts as  
the treachery of others in the same glorious  
cause is notorious; the Society for Constitu-  
tional Information is therefore required to de-  
termine whether or no they will be ready,  
when called upon, to act in conjunction with  
this and other societies, to obtain a fair repre-  
sentation of the people; whether they concur  
with us in seeing the necessity of a speedy  
convention, for the purpose of obtaining, in a  
constitutional and legal method, a redress of  
those grievances under which we at present  
labour, and which can only be effectually re-  
moved by a full and fair representation of the  
people of Great Britain. The London Cor-

responding Society cannot but remind their  
friends, that the present crisis demands all  
the prudence, unanimity, and vigour, that  
ever was or can be exerted by men and Bri-  
ttons; nor do they doubt but that manly  
firmness and consistency will finally, and,  
they believe, shortly terminate in the full ac-  
complishment of all their wishes. I am, fel-  
low citizen (in my humble measure) a  
friend to the rights of man,

"T. HARDY, secretary.

"Resolved unanimously, 1. That, dear as  
justice and liberty are to Britons, yet the va-  
lue of them is comparatively small without a  
dependence on their permanency, and there  
can be no security for the continuance of any  
right but in equal laws.

"2. That equal laws can never be expected  
but by a full and fair representation of the peo-  
ple; to obtain which, in the way pointed out by  
the constitution, has been and is the sole object  
of this society; for this we are ready to hazard  
every thing, and never but with our lives will  
we relinquish an object which involves the  
happiness, or even the political existence, of  
ourselves and posterity.

"3. That it is the decided opinion of this  
society, that to secure ourselves from future  
illegal and scandalous prosecutions; to pre-  
vent a repetition of wicked and unjust sen-  
tences, and to recall those wise and wholesome  
laws that have been wrested from us, and of  
which scarcely a vestige remains, there ought  
to be immediately a convention of the people,  
by delegates deputed for that purpose from  
the different societies of the friends of free-  
dom, assembled in the various parts of this  
nation, and we pledge ourselves to the pub-  
lic to pursue every legal method speedily to  
accomplish so desirable a purpose.

"Postscript. I have to inform you, that a  
general meeting of the society will be held  
on Monday the 14th of April, the place to be  
announced by public advertisement."

*Mr. John Gurnell sworn.*—Examined by Mr.  
*Bower.*

You are, I believe, one of his majesty's  
messengers?—Yes.

Did you at any time, and when, go to the  
House of Mr. Hardy?—I went with a war-  
rant from the secretary of state on the 12th  
of May in the morning.

Did you seize any papers or books there?—  
We seized some papers in a back room be-  
hind his shop.

Did you mark the papers you had seized?  
—Yes.

Is this one of the papers you seized?—  
Yes.

To *Alexander Grant.*—Is this the prisoner's  
hand-writing?—This paper is various from  
the last; there is a difference in them.

Do you believe it his hand-writing?—I am  
of opinion it is his hand-writing; but I cannot  
swear that it is.



[The paper read]

"Friday, April 4, 1794.

"A conference with the Society for Constitutional Information,—present, Daniel Adams, secretary, Mr. Kyd, Mr. Holcroft, Mr. Joyce, Mr. Wardle, and Mr. Sharp. From the Corresponding Society,—Mr. Moore in the chair, Mr. Baxter, Mr. Lovett, Mr. Hodgson, Mr. Thelwall, and Mr. Hardy, secretary.—A motion for communicating to the committee the letters of communication from the societies in the country to the London Corresponding Society; resolved, that the delegates be requested to communicate all the information they can at the next meeting, relative to the state of the different societies associated for obtaining a fair representation of the people. Adjourned to Monday evening, No. 2, Beaufort-buildings, in the Strand."

Is there any thing struck out?

Mr. Shelton.—Robinson's coffee house is struck out, and No. 2, Beaufort-buildings is inserted in a different hand.

Mr. Maclean.—I found this letter at Mr. Adams's.

Alexander Grant said he believed it to be the prisoner's hand-writing.

"To citizen Adams, secretary to the Society for Constitutional Information.

"April the 10th, 1794.

"I am ordered by the committee of delegates of the London Corresponding Society to inform the Society for Constitutional Information, that they approve of the resolutions of the committee of conference.

"Therefore the London Corresponding Society have chosen (five persons) to put in practice immediately the second and third resolutions of the committee."

Mr. Bower.—My lord, we read these two papers for the sake of bringing these parties together; now I shall produce the papers found in the prisoner's custody.

Mr. John Gurnell.—I found this paper in the prisoner's house.

Alexander Grant said he believed it to be the prisoner's hand-writing.

[The paper read.]

"A parliamentary reform is that which of all other things, in our opinion, deserves the attention of the public. We are more and more convinced, by every day's experience, that the restoring the right of voting universally to every man, not incapacitated by nature, for want of reason, or by law for the commission of crimes (together with annual elections) is the only reform that can be effectual and permanent. As Providence has kindly furnished men in every station with faculties necessary for judging of what concerns themselves, it is somewhat strange that the multitude should suffer a few, with no better intellects than their own, to usurp the important power of governing them without control.

"It has been a long and very just complaint, that a very great majority of the people of this country are not represented in parliament; that the majority of the representatives of the whole nation are chosen by a number of voters not exceeding twelve thousand. Many large and populous towns have not a single vote for a representative, such as Birmingham, containing about 40,000 inhabitants, Manchester above 30,000, Leeds above 20,000, besides Sheffield, Bradford, Wolverhampton, Halifax, &c. &c.

"Let us look at the metropolis, and see what a great majority of the inhabitants have not a single vote. Those facts are solid evidences, therefore need no comment. The views and intentions of this society are to collect the opinion and know the determination (as far as possible) of the unrepresented of the people. They certainly are the persons most aggrieved, and have the greatest right to come forward like men, and say—Give us our Rights; and, if they are united and firm, where or who are they that dare oppose them in their determinations?

"From these considerations we have come to the following RESOLUTIONS:

"1. That a society be instituted under the title of the Corresponding Society, for restoring the right of the unrepresented people of Great Britain.

"2. That each member shall pay at least one penny per week towards the expense of the society.

"3. That as soon as twenty members shall be associated, a general meeting shall be called, at which the laws and regulations necessary for the good government of the society shall be established, and such officers appointed as may be thought necessary.—[This resolution was struck out.]

"4. That a committee be appointed to correspond with any and every society that may be formed in Great Britain, with a view of promoting the objects of this society.

"5. That no person shall be proposed to be a member of this society (after the first general meeting) unless he be recommended by one member, and the proposal seconded by another.—[This resolution was struck out.]

"6. That each member's name and place of abode be entered regularly in a book kept for that purpose.

"7. That all proceedings of the society and its committee be fairly transcribed into proper books for that purpose, by the secretary, from the rough minutes, against the next meeting of the society and committee.

"8. That no one be admitted a member under the age of twenty-one years, nor any who has not resided in Great Britain for one year."

Mr. Shelton.—This follows in another hand.

"The society divided into dozens, not to exceed twenty. New members to be admitted in each division of the society by a majority. When seven members are present,



the delegate and chairman of the division to be necessarily one of the electors."

Mr. *Edward Lauzun* sworn—Examined by Mr. *Garrow*.

You are a king's messenger?—One of his majesty's extraordinary messengers.

Did you go to the house of the prisoner?—Yes.

When?—On the 12th of May.

Did you seize any papers?—Yes; a vast quantity of papers. I marked every one of the papers.

Look at that letter; did you find that in the house of the prisoner?—I did.

*Alexander Grant* said, he believed it to be the prisoner's hand-writing.

Copy of a letter to Mr. *Buchanan* at Edinburgh.

"Sir;—I am directed by the London Corresponding Society to send a few copies of their address and resolutions to the Society for a Reform of Parliamentary Representation at Edinburgh; likewise I have to inform you of their wish to enter into correspondence, and be in close connexion with your society: as our cause is one, our sentiments ought to be known to each other, and act with one heart in a matter of such vast importance. We began this society last January; and, since we published our declaration and resolutions, we have increased so rapidly in number and respectability, that we were under the necessity of dividing into different companies to meet at separate houses, and each division sends a delegate to meet as a committee, to transact the business of the whole society. The indorsed papers will inform you more fully of the principles we set out upon. Be so good as to deliver them to the president or secretary of your society. As I know you to be a friend of freedom, you will endeavour to promote a union between the two societies; for, by uniting together, we shall become stronger, and a three fold cord is not easily broken.—I am, sir, with great respect, your most humble Servant,  
THOMAS HARDY, secretary.

"August the 20th, 1792."

Mr. *Lauzun*.—This is one of the papers I seized at the prisoner's.

*Alexander Grant* said he believed it to be the prisoner's hand-writing.

"Mr. *Samuel Jackson*, secretary, to the Manchester Constitutional Society.

"Sir;—The London Corresponding Society has this day directed me to acknowledge the receipt of your favour of the 14th of May, and to return their thanks to the Manchester Constitutional Society, for the readiness they express to enter into a correspondence with us, as also for the book of rules, &c. that accompanied your letter. We should not so long have delayed profiting by their condescension, had any thing worthy communication

occurred; the first slender opportunity that offers we eagerly seize, and beg your acceptance of the enclosed dozen copies of an address to the public, which we hope will meet your approbation.

"I have the pleasure of informing you that our society increases daily, and that the people in general begin to divest themselves of their deep rooted prejudices, the public mind attends more calmly and attentively now than formerly to proposals for a parliamentary reform; most men see the necessity of it, but unfortunately, many are yet over-cautious in engaging their assistance towards it: however, I believe I may venture to assert that partial interest will soon give way to public good.—I am with great respect, your very humble servant,  
THOMAS HARDY, secretary.

"September 4th, 1792."

Indorsed "Copy of a letter to Manchester, Sep. 4, 1792."

Mr. *Lauzun*.—This is one of the papers I found in the house of the prisoner.

*Alexander Grant* said he believed it to be the prisoner's hand-writing.

[The letter read.]

Indorsed "Copy of a letter to Mr. *Favell*, chairman of the Borough Society, August 23, 1792."

"Mr. *Favell*, chairman to the Borough Society of the Friends of the People.

"Sir;—The London Corresponding Society herewith transmits to the Society of the Friends of the People, 50 copies of an address to the inhabitants of Great Britain on the subject of a parliamentary reform.

"We were in hopes that, as both our societies profess to have the same object in view, the delegates of the Friends of the People would, by visiting our committee, as agreed upon in our last visit to them, have kept up an advantageous intercourse of the two societies, and strengthened the common cause by a closer union, and freer communication of our mutual endeavours. We are, however, inclined to hope their absence has not proceeded from any relaxation of zeal towards the public good, nor of diminution of friendship towards a society in whose name we have the pleasure of subscribing ourselves, dear sir, your sincere friends and well-wisher,

M. MARGAROT, chairman.

"T. HARDY, secretary.

"No. 9. Piccadilly,  
August 23, 1792."

*Alexander Grant* shown another paper, said he believed it to be the hand-writing of the prisoner, 23d August, 1792.

Copy of a letter to Major *Cartwright*, chairman of the London Constitutional Society August 23, 1792.

"Major *Cartwright*, Chairman of the London Constitutional Society,

"Sir:—In hopes that our zeal for the advancement of the cause of freedom will, with the public, in some measure counter-balance the want of merit in the inclosed production, the London Corresponding Society takes the liberty of transmitting to the Society for Constitutional Information a few copies of an address to the inhabitants of Great Britain on the subject of a parliamentary reform.

"If it is found to contain nothing repugnant to sound reason or justice, if it may any ways tend to accelerate a radical reform, and if it is so fortunate as to meet the approbation of the London Constitutional Society, our honest, though feeble, endeavours, we shall deem amply rewarded.

"With great respect and esteem, we have the honour to be, for the Committee of the London Corresponding Society, sir, your very humble servants,

"M. MARGAROT, chairman.

"T. HARDY, secretary.

"No. 9, Piccadilly,  
Thursday 23d Aug. 1792."

Indorsed "Copy of a letter to major Cartwright, chairman of the London Constitutional Society."

Mr. Bower.—We will now read the Address.

Lausun.—I found this paper in the prisoner's house.

[It is read.]

"The London Corresponding Society's Address and Resolutions of the 24th of May, 1792; reprinted and distributed gratis.

"Assured that man, individual man, may justly claim liberty as his birthright, we naturally conclude that, as a member of society, it becomes his indispensable duty to preserve inviolate that liberty for the benefit of his fellow citizens, and of his and their posterity.

"For, as in associating, he gave up certain of his rights, in order to secure the possession of the remainder, and voluntarily yielded up only as much as was necessary for the general good—so he may not barter away the liberties of his posterity, nor desert the common cause by tamely and supinely suffering to be purchased from the people of whom he makes a part, their natural and unalienable RIGHTS OF RESISTANCE TO OPPRESSION, and of SHARING IN THE GOVERNMENT OF THEIR COUNTRY; without the full and uninterrupted exercise of which RIGHTS, no man can with truth call himself or his country free.

"Yet of late, the very men who have dared to oppress the nation, have also dared to advance, that *all resistance to their oppression is illegal*; while on the other hand, FRAUD OR FORCE, sanctioned by custom and blind submission, has withdrawn, and now withholds, from a very great majority of the tax-paying, industrious, and useful inhabitants of Great Britain, the RIGHT of sharing in the govern-

ment of *their own* commonwealth, and in the management of *their own* interests.

"The few who are now permitted to elect representatives, and those who are chosen by this *small number of electors*, disgrace the country at large by *buying and selling votes*, by *corrupting* and being *corrupted*—the former by their behaviour at elections, and the latter by their conduct in the senate—more than sufficient to prove, that THE NATION IS UNREPRESENTED, and that THE PRESENT SYSTEM IS TOTALLY UNCONSTITUTIONAL—if by the word constitution, any thing is meant.

"Roused at last from their torpor, and eager to remedy the evil,—various, numerous, and respectable societies have been formed by the people, in different parts of the kingdom, several have also arisen in the metropolis; and among them the *London Corresponding Society*, with modesty, but with firmness, claim the attention of their country to the following resolutions:

"Resolved,

"I. That every individual has a right to share in the government of that society of which he is a member—unless incapacitated.

"II. That nothing but nonage, privation of reason, or an offence against the general laws of society, can incapacitate him.

"III. That it is no less the RIGHT than the DUTY of every citizen to keep a watchful eye on the government of his country, that the laws by being multiplied do not degenerate into *oppression*; and that those who are entrusted with the government, do not substitute *private interest for public advantage*.

"IV. That the people of Great Britain are not *effectually* represented in parliament.

"V. That in consequence of a *partial, unequal*, and therefore *inadequate representation*, together with the corrupt method in which representatives are elected; *oppressive taxes, unjust laws, restrictions of liberty, and wasting of the public money*, have ensued.

"VI. That the only remedy to those evils, is a fair, equal, and impartial representation of the people in parliament.

"VII. That a fair, equal, and impartial representation can never take place until *all partial privileges* are abolished.

"VIII. That this society do express their abhorrence of tumult and violence—aiming at reform, not anarchy—reason, firmness, and unanimity, are the only arms they themselves will employ, or persuade their fellow citizens to exert, against ANARCHY OR POWER.—Signed by order of the committee,

"T. HARDY, secretary.

"April 2d, 1792."

"The London Corresponding Society to the Nation at large."

"Whereas it is notorious, that very numerous, burthensome, and unnecessary taxes are laid on the persons and families of us and others, the industrious inhabitants of Great Britain, an exceedingly great



of whom are, notwithstanding, excluded from all representation in parliament.

"And as upon inquiry into the cause of this grievance, which is at once an obstruction to our industry, and diminution of our property, we find that the constitution of our country (which was purchased for us at the expense of the lives of our ancestors) has, by the violence and intrigue of criminal and designing men, been injured and undermined in its most essential and important parts: but particularly in the House of Commons, where the whole of the supposed representation of the people is neither more nor less than an usurped power, arising either from abuses in the mode of election and duration of parliaments, or from a corrupt property in certain decayed corporations, by means of which the liberties of this nation are basely bartered away for the private profit of members of parliament.

"And as it further appears to us, that until this source of corruption shall be cleansed by the information, perseverance, firmness, and union of the people at large, we are robbed of the inheritance so acquired for us by our forefathers: and that our taxes, instead of being lessened, will go on increasing: inasmuch as they will furnish more bribes, places, and pensions to our minister and members of parliament.

"It being resolved by us, the members of this society, to unite ourselves into one firm and permanent body, for the purpose of informing ourselves and others of the exact state of the present parliamentary representation—for obtaining a peaceful but adequate remedy to this intolerable grievance—and for corresponding and co-operating with other societies united for the same objects, the following regulations for the internal order and government of our society, have been unanimously adopted:

"First. That every person, before he is admitted, shall be proposed by two members, and shall answer in the affirmative to the three following questions, viz.

"Question I. *Are you convinced that the parliamentary representation of this country is at present inadequate and imperfect?*

"Q. II. *Are you thoroughly persuaded that the welfare of these kingdoms requires that every person of adult years, in possession of his reason, and not incapacitated by crimes, should have a vote for a member of parliament?*

"Q. III. *Will you endeavour, by all justifiable means, to promote such reformation in parliament?*

"Secondly. That the whole body shall go under one common name of the *London Corresponding Society, united for the reform of parliamentary representation.*

"Thirdly. That for the more easy and orderly proceeding of the society, it be separated into as many divisions as there shall be thirty members to make up the number requisite for such division. And that no divi-

sion shall divide again, till it amount to double such number of members; at which time notice shall be given to the committee of delegates hereafter mentioned, by the then delegates of such division.

"Fourthly. That each division shall meet weekly, on any evening (Thursday excepted) at some house to be chosen by themselves, and appoint a chairman for the good order thereof; and also shall name a delegate as hereafter mentioned.

"Fifthly. That each member shall pay to the secretary of his division one penny per week, or one shilling and a penny per quarter; which shall be credited to the account of such member in a book to be kept for that purpose. That all money so paid shall be transmitted monthly, by the delegate of such division, to the treasurer, who is to account with the body of delegates for the same, on the four usual quarter-days.

"Sixthly. That the sums so paid to the said treasurer shall form one common stock, to be applied by the said delegates in the postage of letters, in stationary, and in printing such matters as may be good for the information of the society. But that before any expense whatever shall be incurred, the said delegates shall inquire of the treasurer what balance he has in hand.

"Seventhly. That the delegates so appointed shall meet on Thursday in every week, and shall continue in office for three months; subject, however, to be recalled or superseded by their several divisions before the expiration of that time, if thought necessary. That being assembled, they shall name a chairman and secretary, who shall both sign all the public acts of the society.

"Eighthly. That such delegates so assembled, shall in the first place communicate the wishes of their several divisions, relative to any objects of the society. That they shall be authorized to answer any correspondence, which may require immediate attention; and afterwards, that each delegate shall report the same to his respective division. Also, that they shall consider of the general state of the society: but shall on no account publish any new principle, or set of principles, until the same shall be approved by a majority of the individual members of the society at large.

"Ninthly. That it shall be necessary for two-thirds of the said delegates to form a committee for the dispatch of business. And,

"Tenthly. That these resolutions and regulations be printed for the members of the society, and that a copy be given to each member on his admission.

"MARGARET MARGAROT, chairman.

"THOMAS HARDY, secretary."

"Forasmuch as it is possible that the grounds of our complaint may be denied, and that our views and principles may be misrepresented, we desire that every one will seriously consider and treasure in his memory the state of scandalous facts which follow.—



Let him then ask himself, whether it be the part of a good citizen to sit quiet under such abuses, which have not only increased, but are at this moment increasing; and which ought therefore to be remedied without delay.

"Till the reign of Henry 6th it was not necessary for the inhabitant of a county to have a freehold estate of 40s. a year, in order to vote for the representative of his county. But the statute of that king, passed in the year 1429, under pretence of preventing disputes at elections, most unjustly deprived a great part of the commons of this nation of the right of consenting to those taxes which, notwithstanding, they were compelled to pay, just as if such right had not been taken from them.

"Till the reign of queen Anne, it was not necessary for the inhabitant of a county to have 600l. a year, freehold or copyhold estate, in order to his being elected the representative of his county. But the statute of that queen, passed in the year 1710, under pretence of the freedom of parliament, excluded all persons not possessed of such a property from our representation, whatever be their principles, their abilities, or their integrity.

"Till the reign of William 3rd parliaments were of record to be called *once a year*, or oftener if need be. But the statute of that king, passed in the year 1694, under pretence of calling them more frequently, enacted, that they should be holden *once in three years* at the least.

"Till the reign of George 1st, parliaments were therefore of three years duration. But the statute of that king, passed in the year 1715, under pretence of a 'restless faction' then existing in the nation, usurped a power of enacting, that 'parliament should respectively have continuance for seven years.'

"As for the supposed representation of the people, which is called the 'Commons of England in Parliament assembled,'

"The county of Cornwall contains in itself alone the privilege of sending *forty-four* members to parliament, which is just one less in number than those of the whole kingdom of Scotland, containing upwards of three millions of people.

"Of these *forty-four* supposed representatives, two are elected by the freeholders of the county: the rest sit for twenty-one corporation towns; of which

*Electors. Property of*

Launceston	10	..	Lord Elliot
Leakeard	9	..	Ditto
Leawithiel	7	..	Duke of Northumberland
Truro	13	..	Lord Falmouth
Isidmyn	18	..	Sir Francis Basset
Holston	3	..	Duke of Leeds, &c.
Salush	16	..	Sir Francis Basset
East Loe	20	?	Judge Buller
West Loe	20	?	Judge Buller
Grampound	30	..	Lord Sommers, &c.
Camelford	6	..	Lord Camelford
Fearhyn	50	..	Sir Francis Basset

Tregony	50	..	Lord Hertford
Rossiny	40	..	Lord Bute
St. Ives	60	..	Mr. Praed
Fowey	26	..	Prince of Wales, &c.
St. Germain's	6	..	Lord Elliot
St. Michael	14	..	Duke of Northumberland
Newport	30	..	Lord Lovaine
St. Mawes	15	..	Marquis of Buckingham
Callingham	30	..	Lord Falmouth
Electors 453, Members 42.			

"To these we might add, of the same description, 28 corporations, consisting of 354 electors, which send 56 members to that House of Commons, which is so frequently and so falsely called the democracy of the nation; while the towns of Sheffield, Manchester, Birmingham, Leeds, Wolverhampton, &c. containing above three hundred thousand people, have no electors or representatives whatever.

"Upon the whole it appears, that 257 supposed representatives of the people, making a majority of the House of Commons, are returned by a number of voters, not exceeding the thousandth part of the nation.

"But as Providence has kindly furnished men, in every station, with faculties necessary for judging of what concerns themselves, shall we, the multitude suffer a few, with no better right than ourselves, to usurp the power of governing us without control? Surely not!—Let us rather unite in one common cause, to cast away our bondage; being assured, that in so doing, we are protected by a jury of our countrymen, while we are discharging a duty to ourselves, to our country, and to mankind.

"Ordered that the secretary of the society, do transmit copies of the above to all the societies in the nation, engaged in the same cause.

"London, May 24, 1792."

"Address from the London Corresponding Society, to the Inhabitants of Great-Britain, on the subject of a Parliamentary Reform.

"Fellow Citizens,—Of every rank and of every situation in life, rich, poor, high or low; we address you all as our brethren, on a subject of the highest importance, and most intimately connected with the welfare of every individual who deems liberty a blessing, who partakes in the prosperity of his country, and who wishes to transmit as much of either as he possibly can, to posterity.

"Uninfluenced by party pique or selfish motives—no ways affrighted at the frowns of power—not in the least awed by the evidently hostile preparations of a much alarmed aristocracy, we, the *London Corresponding Society*, united with a view of obtaining a THOROUGH PARLIAMENTARY REFORM, anxiously demand your serious and most collected attention to the present VITIATED state of the British government, we entreat



you to examine coolly and impartially the numerous abuses that prevail therein, their destructive consequences on the poor, and their evil tendency on all; as also the rapidity with which these abuses increase both in number and magnitude.

"We next submit to your examination an effectual mode of putting a stop to them, and of thereby restoring to our no less boasted than impaired constitution, its pristine vigour and purity: and we thereunto warmly solicit the junction of your efforts with ours.

"This great end however we believe attainable, solely, by the whole nation deeply impressed with a sense of its wrongs, uniting, and as it were with one voice demanding of those to whom for a while it has entrusted its sovereignty, a restoration of, **ANNUALLY ELECTED PARLIAMENTS, UNBIASSED AND UNBOUGHT ELECTIONS, AND AN EQUAL REPRESENTATION OF THE WHOLE BODY OF THE PEOPLE.**

"Leaving to the enemies of freedom, all violent, tumultuous, and unconstitutional proceedings, we invite you to peaceful, well-regulated, and neighbourly meetings, wherein industrious worthy citizens may as honest men, as good patriots, in a reasonable and sensible manner, laying aside prejudice, seriously and earnestly take into consideration their rights, and the welfare of the present and succeeding generations.

"As men can never barter away the rights of their posterity—as encroachments on liberty or property cease not to be grievances from their being customary and of long-standing—and as a grievance is not the less felt for being denied by those who cause it—feeling grievances enormous,—seeing our liberties encroached upon and endeavoured to be entirely purloined from us—as also that our complaints are derided by government, and ourselves unlawfully menaced by those in power, we call upon you all, Britons, to remember your privileges as such, and to assert your rights as men—to pay all proper regard to your native freedom; and to consider that, being the property of no man, nor of any set of men, it is highly disgraceful for you to suffer yourselves any longer to be thus enslaved and disposed of as cattle in a fair, as irrational beasts in a market, to the highest bidder.

"Laying aside all pretensions to originality, we claim no other merit than that of reconsidering and verifying what has already been urged in our common cause by the duke of Richmond, Mr. Pitt, and their then honest party, years back; now differing from them, we support with candour and zeal (thereby proving ourselves no courtiers) the banner of truth already displayed against the oppressors of mankind, and we take a pride in acknowledging ourselves a part of that useful class of citizens which placemen (pensioned with the extorted produce of our daily labour) and proud nobility wallowing in riches (acquired somehow) affect to treat with a contempt too de-

grading for human nature to bear, unless reconciled to it by the reflection, that, though their inferiors in rank and fortune, we equal them in talents, and excel them in honesty.

"Still, friends and fellow citizens, possessed of souls far superior to the evil spirit influencing these oppressors, these debasers of mankind; instead of hating, we condemn them; and our motive is not vengeance, but redress.

"A constitution we are said to possess, we are willing to believe it—if good, it allows redress to a complaining people—if excellent, as many assert, it must naturally point out the means thereof. Let it therefore be publicly and carefully examined—if it is really what it ought to be, it cannot be too well known; if faulty, it cannot be too soon amended; nor can that be done by a more competent judge than the thus collected sense of the whole nation.

"It is the right of every individual to be well acquainted with the laws that bind him! but how is the peasant, the mechanic, the manufacturer, to obtain that necessary knowledge; his time fully employed in labouring hard to provide a scanty meal for his family, and in earning wherewith to satisfy the frequent and peremptory demands of surly tax-gatherers, he has no leisure for such intricate political researches; and even was he, by stealing that leisure from his labour or his sleep, to acquire the desired insight—still with spirits depressed by his suffering, with fears increased by the clamorous threats of the pensioned all-devouring locusts in office, the sore-oppressed subject feels the remedy to be far out of his reach, and dreads the consequence of being even supposed to know how greatly he is wronged.—Such being the forlorn situation of three-fourths of the nation, how are Britons to obtain information and redress? Will the court, will ministry, afford either? Will parliament grant them? Will the nobles or the clergy ease the people's suffering? No. Experience tells us, and proclamations confirm it, that the interest and the intention of power are combined to keep the nation in torpid ignorance!

"The only resource then, friends and fellow citizens, will be found in those societies which, instituted with a view to the public good, promote a general instruction of our rights as men, expose the abuses of those in power, and point out the only constitutional, the only effectual means of forwarding a public investigation, and obtaining a complete redress for a people in whose credulous good nature originated their present difficulties.

We will not hurt your feelings by a minute detail of our common grievances; you cannot be ignorant, friends and fellow sufferers, how generally power, place, pension, and title, are the rewards of men whose services to the court have been of the greatest prejudice to the country. You painfully feel the consequences; increased taxes, a great part of which are most vilely squandered; a heavy

national debt, begun with a design of forming a powerful and monied court-party; continued with nearly the same view, unto its present enormous bulk, and from its commencement militating against our liberties! Too visible are the numerous encroachments on our rights, too common the insolence of office, the venality of magistracy, the perversion of the laws, the letting loose the military on every occasion, and those occasions eagerly sought. The subject's complaints derided—the one part of the nation turned into spies and informers against the other—the—but wherefore more? Is here not enough to prove beyond a doubt, that while we boast the best constitution, the mildest laws, the freest government, we are in fact slaves!

"Yet, fellow citizens! numerous as are our grievances, and close rivetted as weighty to the shackles on our freedom; reform one alone, and the others will all disappear. If we once regain an annually elected parliament, and that parliament to be fairly chosen by all, the people will again share in the government of their country, and their then unbought, unbiassed suffrages must undoubtedly select a majority of honest members, while the very few unsound ones, that may accidentally obtain seats, will, from the consideration of their annual dependance on the people, think it highly advisable to continue the disguise that procured them their election, and at least wear the mask of honesty—a mask neither at all times necessary, nor at all times worn, in a septennial parliament.

"Let no man imagine himself unconcerned in the proposed reform—let no one think so meanly of his situation or abilities, as to suppose his coming forward will be of no service to the cause of liberty! numbers, union, and perseverance must in the end be crowned with success, while compared with the small efforts of each individual associating and thereby countenancing the demand of the nation to be restored to its constitutional rights! how great will appear the advantages resulting therefrom!—

"AN HONEST PARLIAMENT!

"AN ANNUAL PARLIAMENT!

"A PARLIAMENT WHEREIN EACH INDIVIDUAL WILL HAVE HIS REPRESENTATIVE.

"Soon then should we see our liberties restored, the press free, the laws simplified, judges unbiassed, juries independent, needless places and pensions retrenched, immoderate salaries reduced, the public better served, taxes diminished, and the necessaries of life more within the reach of the poor, youth better educated, prisons less crowded, old age better provided for, and sumptuous feasts at the expense of the starving poor, less frequent. Look not upon this, dear countrymen, as an enthusiastic vision; but rather let us together take a calm and reasonable review of such an honest parliament assembled—let us in idea curtail their session unto even the short dura-

tion of three months in one year, or sixty-four meetings for doing the annual business of the nation. Still five hundred honest men, meeting sixty-four times, with both intention and capacity to serve their country, must do *something*—must employ their time somehow. Contested elections, none or very few, and soon determined; party debates, none, the interest of the people being one; long speeches much diminished, honest men seeking reason not oratory; no placemen in the senate, corrupt influence dies away, and with it all tedious, obstinate, ministerial opposition to measures calculated for the public good: detesting chicanery, oppression and injustice of every kind, this honest parliament, finding that the laws wanted simplification and arrangement, would set about it, however destructive their labours might prove to the sordid interest of an ambitious judge, a prostituted council, a packed jury, or a vile herd of pettyfoggers, trading justices, bailiffs, or runners.

"Finding that a most extraordinary waste of public money had taken place under the different pretences of places, pensions, contracts, armaments, subsidies, secret service money, &c. our honest and annual parliament would, after narrowly scrutinizing the same, retrench every sum, needlessly or wickedly laid out.

"Recalling to their mind that wise and wholesome provision of the 12th of William 3rd, chap. 2, enacting, that *all resolutions taken in the privy council shall be signed by such of the privy council as shall advise and consent to the same*; they would call for an immediate renewal of that long-suspended law, and by so doing, all destructive secret influence will be rooted up, and the people could then, at all times, discover who were their friends, and who their foes.

"The people's parliament finding, that under various pretences grants of common land had been obtained by sundry persons, no ways to the benefit of the community, but very much to the distress of the poor, the same would be soon restored to the public, and the robbed peasant again enabled annually to supply his distressed family with an increased quantity of bread out of the profit arising from the liberty regained of grazing a cow, two or three sheep, or a brood of geese thereon.

"With detestation would that parliament view any man enjoying the emoluments of six or seven places, either needless and overpaid, as requiring altogether but one officer, or else their several duties neglected, and the public thereby deprived of that service for which they pay their money.

"Numerous other reforms would undoubtedly take place, even in the first session of parliament so elected, dependent only on their electors the people. Untorn therefore by faction, undivided by party, uncorrupted by ministry, and uninfluenced but by the



public good, every transaction would tend to reform, and a strict economy, its natural consequence, might soon enable us to reduce our taxes; and by the integrity of parliament, that reduction would light upon such objects as best might relieve the poor. This to the people would prove an advantageous and a novel session, and to an honest parliament not a tiresome one.

"Therefore Britons, friends, and fellow citizens, with hand and heart unite, claim what is your right, persevere and be free; for who shall dare to withstand our just demands!—oppression already trembling at the voice of individuals, will shrink away and disappear for ever, when the nation united shall assert its privileges, and demand their restoration.—Signed by order,

"M. MARGAROT, chairman.

"T. HARDY, secretary.

"Ordered, that the secretary of this society, do transmit copies of the above to all the societies in the nation, engaged in the same cause.

"London, August 6, 1792."

Mr. Erskine.—Be so good as to read the quotation from Thomson's poem on Liberty.

[It was read.]

"Unblest by virtue, government a league  
Becomes, a circling junto of the great,  
To rob by law; religion mild, a yoke  
To tame the stooping soul, a trick of state  
To mask their rapine, and to share the prey.  
Without it, what are senates, but a face  
Of consultation deep, and reason free,  
While the determin'd voice and heart are sold?  
What boasted freedom, but a sounding name?  
And what election, but a market vile,  
Of slaves self-barter'd?—"

Mr. Edward Lauzun.—I found this paper in Mr. Hardy's house.

Mr. Bower, to Alexander Grant.—Is that the prisoner's hand-writing?—I cannot say that it is.

Do you believe it to be his hand-writing?—It is different from the other hand-writing. I do not believe it to be his hand-writing.

Mr. Erskine. I admit it.

[It was read.]

"Mr. N. Hibbert, president of the Society of the Friends of Universal Peace, and of the Rights of Man, at Stockport.

"Sir;—I am directed by the London Corresponding Society, united with a view of obtaining a parliamentary reform, to inform you, that they read with great satisfaction, in the papers of last week, your interesting account of the institution and proceedings of the Society of the Friends of Universal Peace and of the Rights of Man, and seize with joy the first opportunity of commencing an acquaintance and correspondence with men who act on a similar plan to themselves; they there-

fore have ordered me to transmit to you, sir, as president, a few copies of their addresses to the nation on that subject, and to invite you to similar communications on your part, always remembering that *union, good order, and numbers*, are absolutely necessary to our success. We began to associate last January, and since the late proclamation we have increased rapidly.—I am, sir, your very humble servant.

"London, 11th September, 1792."

Mr. Edward Lauzun.—I found this paper in Mr. Hardy's house.

[It was read.]

"Dear sir;—In obedience to the wishes of the society here, I have the pleasure of acknowledging the honour of your letter and the packet which the kindness of our brothers of the London Corresponding Society so opportunely presented us with.

"It is doubly deserving our thanks, as it shows your kindness, and as it will be useful in the formation of our infant society. We stand much in need of your experience in this particular, and we doubt not of your best assistance. We are surrounded by a majority, a formidable one indeed, in power, abilities, and numbers; but we are not dismayed.

"We have carefully perused the addresses, and I am to observe on their contents in general, that the sentiments hardly rise to that height which we expect from men sensible of their full claims to absolute and uncontrollable liberty, i. e. unaccountable to any power which they have not immediately constituted and appointed.

"These are our sentiments, whatever may be yours, though in the present state of political knowledge it may be prudent not to avow them openly. We desire your sentiments on the means of accomplishing that object which we presume you have in view in common with us. We think it expedient that we should perfectly understand each other in the beginning, lest the appearance of disunion might furnish matter of triumph to our enemies. We observe one expression, which says, 'Numerous other reforms would undoubtedly take place, &c. &c.' But we ask how is that parliament to be chosen? Can we expect it from the present order of things? Would not all the evil be done away at once by the people assembled in convention? Does it appear probable that the odious laws which we complain of will be abolished any other way? Can the grievances arising from aristocracy be redressed while the ——— retains its present authority in the legislature? Is the universal right of conscience ever to be attained while the B ——— maintain their seat on the ———?

"Your thoughts on these important points we most earnestly desire may be transmitted to us as soon as possible; not directed as the last, we fear it will excite suspicion. Direct



to Mr. Joseph Heamer, Petty Carr, Stockport, who is chairman occasionally in the absence of N. Hibbert, who resides too far from hence to be at hand on emergencies.—Your's, &c.

"P. W. Frost."

Addressed, "Mr. Thomas Hardy,  
boot and shoemaker near  
Piccadilly."

Indorsed, "rec. 27th of Sept. 1792."

"Ans. 11th of Oct., and sent a copy of the address."

Mr. Edward Lauzun.—I found this paper in Mr. Hardy's house.

[It was read.]

"The Friends of Universal Peace and of the Rights of Man Society."

"Mr. Joseph Heamer."

"London, 11th Oct. 1792."

"Sir;—With infinite satisfaction the London Corresponding Society's committee perused your letter; they are happy to learn your steady determination, spite of all obstacles, to pursue that sole means of political felicity a perfect representation of the people."

"With regard to our publications, our sentiments are expressed in as strong terms as prudence will permit; yet plain enough we imagine to convince the public, that while we expect every thing from an honest and an annual parliament, nothing short of such a senate chosen by the whole nation will satisfy us."

"True generosity, the characteristic of this nation, and of all unpurged men throughout the globe, calling upon us to countenance, at this juncture, the arduous struggle of the French nation against despotism and aristocracy, these foes to the human race, we have resolved upon addressing the French National Convention."

"Without entering into the probable effects of such a measure, effects which your society will not fail to discover, we invite you to join us, and to that end herewith you have a copy of our intended address; if you approve the idea, and will concur in sending it, be pleased to return us, without delay, a copy signed by your president and secretary, or by the delegates, stating each for how many persons he signs, we will then associate your body with ours, and with some others who have already assented to the measure. If, on the contrary, you disapprove that mark of zeal towards the only nation that has hitherto undertaken to restore to mankind its just rights, please to communicate to us your objections.—I am, sir, for the committee of delegates, your's &c."

"M. M. ch."

Mr. Bower.—I will prove part of this letter to be in Mr. Horne Tooke's hand-writing.

Mr. William Woodfall sworn, examined by Mr. Bower.

Are you acquainted with Mr. Horne Tooke's hand-writing?—Yes.

Look at that letter, and see whether there is any part of it Mr. Tooke's hand-writing.—I do not think that part of it is Mr. Tooke's hand-writing, but there is an interlineation which I believe to be his hand-writing.

Have you seen him write?—I have, and believe that to be his hand-writing.

Which are the parts?—The word "things" over the first line of all other things put with a caret, the word "incapacitated" is mended apparently, the word "for," and the word "views," resemble his character.

Do you believe it to be his?—I believe it to be his character, it is the conclusion of the writing.

Mr. Erskine.—The jury should know this is a paper that has been already read.

Mr. Woodfall.—It is apparently his, but it was written at a tavern, or in that loose manner which people are apt to write in when not at home at their desks; but I think it is his character.

Mr. Maclean called again.

Mr. Law.—Where did you find that paper?—I found it at Mr. Adams's.

To Alexander Grant.—Is that signature Mr. Hardy's hand-writing?—That is not the usual way he signs his name; I believe it is his writing. [It was read.]

"D. Adams, esq. secretary to the Society for Constitutional Information."

"Sir;—Your favour of the 3rd instant, informing us that our proposal for addressing the French National Convention had met with the approbation of the Society for Constitutional Information, we have inclosed you a copy of the address we have drawn up, and mean to send, the society at large having approved of it."

"Not in the least presuming to propose it for the adoption of your society, ourselves will joyfully throw it aside, and as readily subscribe to any production of your's better calculated to answer the purpose, and less unworthy being presented to so august an assembly."

Should no other be produced, we imagine this plain but honest address will be adopted by some other societies in concurrence with our own; and, respecting the manner of signing, of conveying, and of presenting it, your better experienced advice will greatly oblige.—Gentlemen, your very humble servant, for the committee of the London Corresponding Society,

"MAURICE MARGAROT, chairman."

"THOMAS HARDY, sec."

"Thursday 11th Oct., 1792."

"D. Adams, esq. Took's Court,  
Chancery-lane."

Mr. Edward Lauzun deposed that he found the following letters in Mr. Hardy's house.

[They were read.]

"Sir;—Your favour of the 11th instant, and the address of the London Corresponding



Society, were read at a meeting of the Society for Constitutional Information held last Friday, and I am desired to express their thanks to the London Corresponding Society for the said address, and to assure them that they do highly approve of the spirit of the same.—I have the honour to be, sir, your most obedient servant,

"D. ADAMS, Sec. to the Society for Constitutional Information.

"Took's Court,

Monday, 15th Oct. 1792.

"Maurice Margat, esq. chairman to the London Corresponding Society."

"Mr. Thomas Walker, president of the Manchester Constitutional Society.

"Sir:—Multiplicity of business prevented our secretary from answering your kind favour of the 26th ult. We content ourselves this day with transmitting to you for the consideration of the Manchester Corresponding Society our intended address to the French National Convention; if your society approves of it, and will join us, the manner in which you will do so remains with you; but we imagine, that the sending us back a copy of the address, signed by the president and the secretary, stating the number of persons for whom they sign, will be sufficient to authorize us to join the name of your respectable society with others concurring in the same measure. We likewise request your speedy answer directed as before to T. H. &c.

"M. M. chairman of the C. of D. &c.

"We mean to concert with the London Constitutional Society about the best method of conveying and presenting the address.

"Oct. 10, 1792."

"Sir:—The London Corresponding Society has received your letter of the 6th instant, directed to their secretary. We are happy to learn your determination in favour of freedom. Ourselves, to give it all the countenance we can afford, have determined on a friendly address to the French National Convention. We hope the concurrence of many societies. Annexed you have a copy of it, and if the different affiliated societies in your neighbourhood will join us in transmitting that mark of our approbation to the French, it will only be necessary for you with all speed to return us a copy of the address signed by the president and secretary, or by the delegates, stating the number of persons for whom they sign.—I am, sir, for the committee of the London Corresponding Society, your very humble servant, M. M. ch."

"London 11th Oct. 1792.

"To the Revolution Society at Norwich."

"Derby Society for Political Information.

"Mr. S. Eyre.

"London 19th Oct. 1792.

"Sir:—With pleasure we acknowledge your

favour of the 16th instant, and return you our thanks for the papers sent us; as also for those from the new society at Nottingham, to whom we wish you would communicate this and the inclosed address, which our society, joined by some others, intend to present to the French National assembly; we cordially invite your society and that at Nottingham to concur with us also in the same; which, if you do, we desire you will send us back a copy, signed by the president and secretary of each society, and, at the same time, state the number of members you respectively sign for, *as the greater the number, the greater will the effect be.*

"Our hopes are as sanguine as yours, and, perhaps, our numbers increase as fast: reason and good order must make us invincible. I am, sir, for the London Corresponding Society, yours, &c. "M. M. ch.

"Please to let us have your decision as soon as possible."

"London Oct. 18, 1792.

"Sir:—The London Corresponding Society learn with pleasure, that the Society for Constitutional Information approve of the spirit of our address; but, to come back to the point, we imagine that as you previously had approved the measure, and that now you approve the spirit of the address itself, we may with propriety ask you, whether you will concur with us in sending that address, or whether you will draw up another, better suited to the present circumstances, and permit us to join you in transmitting it to the French National Convention.

"D. Adams, Sec. to the Constitutional Society."

"Norwich, Nov. 11th, 1793.

"Mr. Secretary:—Sir, We the society for Political Information, are desirous of holding and strenuously supporting the noble sentiments which you so lately and friendly dispersed among us; and, as we so much admire your well adapted plan for a reformation in the state, permit us, with the utmost deference to your worthy society, to participate with you in all your great national correspondence, which your very name promises to maintain; and, in consequence thereof, it is humbly desired by the society which I have the happiness to represent, to incorporate three members with your worthy fraternity; in doing which, I shall here inform you of their names and residence, which are as follows; Mr. Isaac Saint, at the Weaver's arms, St. Augustins, Norwich; Mr. Anthony Cadewould, cordwainer, near the Globe, ditto; George Knapp, near ditto. Our principal design, sir, in doing this, is, that we may have an opportunity of knowing more exactly what may be thought the most eligible steps to be taken in carrying on this great business of our associated brethren, and to have an opportunity to ask such sort of questions as may be



thought very reasonable among the brethren, especially when we think that publications are covered with a sort of obscurity in its language, as the Sheffield people's Declaration, which seemed determined to support the duke of Richmond's plan only; but since we find in a printed letter received from them in a book, that they mean to abide by some moderate reform, as may hereafter be brought forward by the Friends of the People, which method is uncertain to us. Again we find that the Friends of the People and the Society for Constitutional Information do not exactly agree. We could be glad to know the reason: it seems to me as though the difference was this—the Friends of the People mean only a partial reform; because they leave out the words expressing the duke of Richmond's plan and talk only of a reform; while the Manchester people seem to intimate, by addressing Mr. Paine, as though they were intent upon republican principles only: now, to come closer to the main question, it is only desired to know whether the generality of the societies mean to rest satisfied with the duke of Richmond's plan only; or, whether it is their private design to rip up monarchy by the roots, and place democracy in its stead, I shall now, sir, give you an exact account of what plan we could wish to obtain, which I have already moved for at our general meeting, viz. a full and equal representation of the whole body of the people, a general suffrage of votes, and annual parliaments. I remember the Society for Constitutional Information intimated to us that Mr. Basham used to write to them in the name of the Revolution Society; if you approve of that appellation, pray be so kind as to give us a full and satisfactory answer. I shall say no more at present, but remain a friend to peace, not to anarchy; a well-wisher to the rights of man when obtained by consent; and your most obedient and humble servant,

"GEORGE KNAPP, chairman.

"ISAAC SAINT, secretary.

"ANTH. CADDEWOULD member.

"P. S. I should esteem it a favour to be informed of the town residence of the lords Kenyon and Loughborough, for a matter of private concern."

Addressed "to Mr. Thomas Hardy, to be left at the Bell, Exeter-street, Strand, London."

"Fellow Citizens;—Your letter of the 11th instant was, by the secretary, laid before the committee of delegates of the London Corresponding Society.

"Having never before heard of your society, they wish to have some further information concerning it, as to its origin, its principles, and the number of its members; such an account in your next letter will give them great satisfaction. They do not thoroughly comprehend how it would be possible to incorporate with our society three of your members

residing in Norwich, inasmuch as it would be impossible to communicate to them at that distance all our correspondence, and they could not attend our committees, where the business is transacted. If it is information you want, they very readily will answer any question you may put to them; and, to that end, invite you to a regular correspondence. As to the object they have in view, they refer you to their addresses; you will therein see they mean to disseminate political knowledge and thereby engage the judicious part of the nation to demand a restoration of their rights in annual parliaments, the members of those parliaments owing their election to the unbought and even unbiassed suffrage of every citizen in possession of his reason, and not incapacitated by crimes. They consider the obtaining such parliaments to be the ground work of every necessary reform; to this therefore they steadily adhere, and turn themselves neither to the right nor to the left, to follow any other plan whatever; the rules and order of their society being so plain and easy, that if they can get a majority of the nation to act as they do, the proposed reform will effect itself. They look upon the trifling difference that may have arisen between the several societies to be of very little consequence, and think they will subside without any ways injuring the cause.

"They think it a matter of small importance whatever name you choose to adopt. They advise you to follow their plan, and divide yourselves into small societies, each of which to choose a delegate; the delegates, when met, to form the committee, and transact the business of the society; afterwards, let each delegate report to his division the business so done; let him admit fresh members, communicate fresh intelligence, encourage political discussion, or read to you such books as may convey the instruction your weaker members stand in need of; but, above all, be careful to preserve peace and good order among you; let no dispute be carried to excess; leave monarchy, democracy, and even religion, entirely aside; never dispute on these topics, let your endeavours go to increase the numbers of those who wish for a full and equal representation of the people, and leave to a parliament, so chosen, to form plans for remedying the existing abuses; should they then not answer your expectation at the year's end, you may choose others in their stead. The committee offer you every assistance in their power, but request that your questions may relate chiefly to the methods of obtaining a reform in parliament. Like yourselves, they are friends to peace, not anarchy, and well-wishers to the rights of man; yet not so sanguine in their expectations as to imagine those rights will be restored by the spontaneous consent of those who have so long deprived mankind of them. Understanding that you are many societies in Norwich, the committee recommend as you



to unite upon the plan before mentioned; the correspondence, then carried on by one committee, will serve you all: they likewise recommend the appointment of one of the least conspicuous of your members to receive such letters as may be sent to the society, lest, if he be well known about your town to be a member, some interruption might take place in the delivery.

"I am, for the London Corresponding Society, most sincerely, fellow citizens, your fellow-labourer in the cause of freedom,

"M. M. chairman,"

"The Committee of the Friends of the People.

"*London, the 1st February, 1793.*

"Gentlemen;—We are instructed by the committee of delegates of the London Corresponding Society to express the satisfaction they experience in finding, by your answer to our letter, that your society are willing to communicate freely with those whose friends they profess themselves to be: not the less determined to obtain the desired reform, had you refused to act in concert with us, we yet freely acknowledge that your concurrence will add great weight to our so just demand. Leaving the distinctions of rank, talents, and fortune, entirely out of the question, on a subject in which every man is equally interested, all must be convinced, that when members of parliament demand a reform, abuses certainly exist; and that when men, distinguished for their knowledge of the laws, join in the pursuit, its constitutionality is sufficiently warranted.

"With you we think, that 'the common happiness of all' is the only constitutional authority laws can claim—that laws so founded must meet the affections of the whole nation and that those who seek the most effectual means of obtaining such, 'equally promote the present peace and the future prosperity of their country.'

"Venerating with you our excellent constitution, we are firmly persuaded the restoring it to its primitive purity will be found a sufficient remedy against every abuse we complain of. Did we, however, deem less highly of its principles, we could not be brought to think ourselves so greatly degenerated as to be unequal to the renewal of a task which our forefathers undertook, without fearing it would prove beyond their strength, not to disgrace them by supinely submitting to a total overthrow of the glorious fabric, reared by their valour and cemented with their blood, from premature apprehensions of 'the tempest that might ensue' in a conflict of oppression against general good—pecuniary interest, and life itself, are never to be brought into competition with liberty.

"We thank you  
sir for your kind ad-  
vice  
d obedience  
ation  
nly

evince—we have never departed from legal obedience, and have thereby frustrated the evil designs of all those who militate against reform.

"You acknowledge, that 'to wish success to the cause of freedom is congenial to the heart of a Briton,' instead therefore of admitting your argument against our having published such sentiments by a friendly address to the National Convention of France, that you, that all other societies, that the whole nation did not catch the generous flame, and follow our example—as to the handle likely to be made of it by our corrupt opposers (and well we have noted them), let them use it like most of their other machinations, it will only accelerate that which they dread.

"We must observe, that at a time when the enemies of mankind are exerting every power to crush the infant effort of French liberty, it became our duty, as friends to human happiness, to express the just abhorrence we entertained of a manifesto which we conceived aimed, not so much at the liberty of France as at the liberty of the world. But to make any particular comments upon that manifesto is now unnecessary, as it might be unsafe—we only wish every Briton to peruse it.

"Regardless of any evil intention, which the malice of our enemies may attribute to our conduct, we remain conscious of our rectitude; and that we therein acted up to the free, open, manly, generous national character of Britons—a character which oppression, assisted by enervating luxury, has not yet been able to entirely extinguish.

"Unnoticed, however, you have passed over our statement of abuses, our addresses to the nation, our demand of protection, addressed to those whose duty it is to afford it, and our answer to the calumnies of Mr. Reeves's association, we request your notice of them. Pressed likewise by our numerous country correspondents to give them authentic information of what measures you mean to pursue when you mean to begin, and how far you intend carrying your proposed reform; we beg your explicit answer on these heads, and that you will enable us speedily to rightly inform the country thereon—no ways doubting, but that from your answer, we shall be enabled to assure them that you are really what your title imports, the *Friends of the People*, for many thousands of whom, in the name of the London Corresponding Society, united in one common interest and pursuit, with many other societies in different parts of the island, altogether forming no despicable number of useful members of society;—we have the honour of subscribing ourselves, your fellow-labourers, and humble servants."

"Sir;—I am directed by the Society of the Friends of the People to acknowledge the receipt of your letter, dated February 1, 1793."

having pledged ourselves by our public acts and documents, to use every effort in our power for the purpose of obtaining a complete, substantial, and radical reform of the representation of the people in parliament, we never can be supposed to have surrendered to any other body of men the exercise of our own discretion, with respect both to the plan which we deem most effectual for the purpose, and the time which we may think most favourable for offering it to the public; at present we think, that to make public our views on these subjects, would be to furnish arms to our enemies, and to injure the cause in which we are engaged. The period, however, is probably not very far distant when these particulars will be made known to the public; it is sufficient now to express our confidence, that that moment will prove by evidence more substantial than professions; that we will propose no plan of reform which is short of an effectual destruction of abuses in the representation of the people, and that we have honestly exerted every faculty we possess in choosing the time most favourable to the success of our plan.

"We have learned, with affliction and indignation, the arbitrary and unconstitutional interruption of meetings of citizens, peaceably and lawfully assembled for the discussion and maintenance of their rights. We have ever viewed with utter disapprobation both of their principles and proceedings, the associations who have been the authors or instruments of this persecution. Their principles, we think, are repugnant to the free spirit of the English law; and their conduct, we think, has been as injurious and oppressive, as the principle of their institution is unconstitutional and absurd. But deeply penetrated as we are with these sentiments, we neither possessed power nor legal competence to interpose for the protection of an individual, suffering even under the most unjust prosecution, we cannot therefore feel ourselves blamable for inaction in cases of which the particulars were never laid before us, and in which it might have been perhaps impossible, and perhaps improper, for us to have interfered.

"We do not think it necessary to make any particular remarks on those publications which you have put forth; we are not called upon to pronounce any judgment on the publications of individuals or societies; and however we may lament the grievances of which some of your publications complain, our efforts must necessarily be limited to the object of our institution—the creation of an organ to speak the public voice in legislation.

"We cannot help expressing some surprise at the information, that societies in different parts of the kingdom, who were solicitous about the nature and extent of our plans of reform, instead of expressing such solicitude to ourselves, should have chosen the indirect and circuitous channel of any other society.

Had they applied to the Friends of the People directly, they would assuredly have received every information compatible with prudence, and with a due regard to the success of our common cause.

"On the subject of your correspondence with the National Convention of France, we freely communicated to you our opinion in our last letter; we see no reason to change the sentiments which we then expressed on the prudence and tendency of that measure, for though we not only 'acknowledge,' but avow with pride, 'that to wish success to the cause of freedom is congenial to the heart of a Briton;' yet we cannot think that men engaged in so momentous a cause, as that of parliamentary reform, are entitled to make public declarations, even of their most virtuous sentiments, in any manner which may injure that cause, serve the purposes, and strengthen the pretexes of its enemies. Far be it from us to treat with severity and rigour even those errors and indiscretions into which men may be betrayed by a generous zeal for the cause of freedom, but surely it cannot be denied, that the correspondence of societies in this country with public bodies in France, has furnished the most specious pretences to interested men, for confounding a virtuous sensibility to the interests of liberty in other countries, with a criminal intention to introduce disorder and civil commotion into our own; it is chiefly by the help of this pretext, that designing men have so successfully practised on the alarms of the public, and that timid honesty has been rendered the dupe and the instrument of corruption. But on this subject all further remark is now become unnecessary, as every good citizen must now feel himself precluded from all political intercourse with France (for a period which we earnestly pray may be very short), by a war, the principle of which we utterly disapprove, the inevitable evils of which we deeply deplore, and at the possible consequences of which we tremble. Among the most wise and honest friends of liberty there must arise frequent differences of opinion and of conduct; and these differences, the natural effect of an independent judgment and independent spirit, are perfectly compatible with mutual confidence and co-operation; when indeed designing persons avail themselves of such differences, to sow distrust, and to insinuate suspicions against the characters and intentions of men, it is then only that they become pernicious and injurious. Against practices which might produce such a spirit of disunion and distrust, it is surely almost unnecessary to warn the friends of liberty, at a moment when our enemies are so formidable and so united. They have sacrificed all inferior interests and all former differences to their common interest, in perpetuating abuses and corruptions. Let it not be said, that more generous motives have a less powerful influence on the human mind, and that the love of liberty is not able to produce



that union among her friends, which in her enemies has arisen from the most abject and sordid passions.

"It seems scarce necessary to represent to the London Corresponding Society the peculiar necessity of circumspection and moderation, at a moment when the most venial indiscretion of the friends of reform is remarked with such malignant watchfulness, and converted into an argument against the cause of reform itself.

"He must surely either be a secret enemy, or an unsafe and pernicious friend of that cause, who could prompt you to any thing that could be construed into indiscretion, or who would labour to sow distrust among the small number of those who now appear in behalf of freedom in England, at a period when a persecution is carried on against the friends of reform at home, and a war is commenced, which in its progress may combine the arms of England with those of powers engaged in a crusade against the general liberties of Europe.—In name and by order of the committee, EDWARD JER. CURTEIS,

"Chairman of the committee.

"No. 52, Frith-street,  
February 15, 1793.

"To Mr. Thomas Hardy, secretary to the London Corresponding Society."

Mr. Edward Lauzun deposed, that he found the following paper in Mr. Hardy's house.

"Sir;—The committee of the London Corresponding Society have at present to acknowledge the receipt of your letter of the 15th of February.

"With pleasure we perceive your society not unwilling to keep up a correspondence with us, yet at the same time we are sorry that you should appear to be hurt by the plain questions we put to you in our last; to ask of you what measures you mean to pursue in a matter which concerns us all, is certainly no ways calling upon you to surrender up to our society, or even to the public at large, your discretion; nor can we conceive that a body of men having pledged themselves to the public, can be a sufficient security to that public to repose implicit confidence in them, without being made further acquainted with the nature and extent of the plan you mean to pursue, in order that we the people may, if we approve it, co-operate with you; the extent of your proposed reform we apprehend is already determined upon, and we can discover no advantage likely to result from its secrecy; on the contrary, if we are to ask for ourselves the same thing which our friends mean to ask for us, the latter must receive their instructions from us, or we must be directed by them; in either case there must be no secrets; we further conceive, that the permanency of a reform must be founded on the acquiescence of the public, who after maturely deliberating on every thing proposed, shall

have found your plan the most useful and the best that could possibly be laid down. The business we are engaged in is of too important a nature to admit of reserve or disguise; we will therefore, by the frankness of our behaviour, show ourselves worthy the friendship of a society of honest men endeavouring to serve their country, and plainly tell you our country correspondents did not desire us to inquire of you what you meant to do, but fairly asked us whether we thought you honest? whether we thought you meant to serve a party, or the nation? whether we imagined you intended a partial or a complete reform? Addressed in this manner to us, and blunt as these questions may appear, they have nothing in them which can possibly offend you, the people having always an undoubted right to scrutinize the character and principles of those who call themselves their friends, and, as such, avow an intention of bringing forward measures in which we are all so deeply interested. As to the furnishing our enemies with arms by a disclosure of our intention, we cannot conceive that demands, founded on constitutional rights, can lose any of their force by being made public. Reason (*vires acquirit eundo*) to triumph requires only to be known; and as none of the people's demands are founded on fallacy, to take the enemy by surprise would be unworthy of the public champions, and moreover, perfectly needless when truth and reason must unavoidably bear down all before them without the assistance of guile.

"Under the idea that, where you say 'you' neither possessed power, nor legal competence to interfere for the protection of an individual, suffering under the most unjust prosecution,' you allude to the case of our bill sticker, we must beg to set you right, and to inform you we never, as a society, sought the interference of any body of men; on the contrary, we are firmly persuaded, however hard such cases may bear upon individuals, they will eventually prove of service to the public, nothing having a greater tendency towards rousing the country from its too prevalent apathy, with regard to stretch of prerogative and abuse of power.

"As to our Address to the French National Convention, we imagine it best to say no more about it at present, only that if it has furnished pretexts to designing men, it has only saved them the trouble of seeking excuses elsewhere: but such men, even without our aid, would have been at no loss; at the same time, we are to believe the plan for war, if conceived before then, was by no means accelerated thereby;—intended as preventatives, addresses might have been effectual, if they had not been more generally adopted; the only fault therein, that by a mistaken idea, the addressers gave credit to the nation for a greater degree of energy than it really possessed. We agree with you, that unity of sentiment is no way incompatible with diver-

sity of opinion, and that the latter is natural to independent minds; with the same object in view, their mode of pursuing it will undoubtedly differ; with caution, therefore, we will watch over those who wish to sow the seeds of unnecessary distrust among us, and will at the same time take good care that the doctrine of implicit confidence may not gain ground among us; full as much as yourselves, we plead the necessity of union among the friends of liberty, but lament that it is prevented, or at least retarded in many instances by the very same thing that promotes it among the enemies of reform, namely, interest; with them, all their interest is for the continuation of abuses, while to some of us a reform must be attended with pecuniary loss, and many others would lose their employ, their daily bread, were it known they took an active part; thus, the same motive, assuming on one side the appearance of a virtue, gives emulation to bad men, and on the other, in its vilest but most natural form, stays the progress of those who, with the best intentions, labour to save their country.

"We thank you for your kind and prudent advice, enjoining us moderation and discretion at this critical moment, when every imprudence in the advocate is liable to be rendered prejudicial to the cause itself."

Mr. Garrow.—It appears by its contents to be an answer to Mr. Curteis's letter.

Alexander Grant.—Examined by Mr. Garrow.

I believe you are by business a printer?—Yes, I am.

Did you at any time, and when, become a member of the London Corresponding Society?—Yes; I believe in the beginning of the year 1792.

To which of the divisions of the society did you belong?—I think it was No. 2.

Where were the meetings of that division held?—At the house of a Mr. Hyde, at the Bell in Exeter-street.

Name some of the persons who frequented those meetings of the divisions.—There was Mr. Margarot used to be one.

What character was Margarot in the society?—He was conceived by me to be president of the division.

Did he act as such?—Yes.

Who else?—Mr. Richter, Mr. Moore, and several others that I do not recollect. I knew very few of them. I think Mr. Hyde, the master of the house, was a member.

Were you applied to at any of those meetings to print any papers for the divisions, or for the society at large?—I was not at that time.

When were you, if ever, applied to to print any?—I was applied to some time in the middle or the latter end of the year 1792.

Whom was that application made to you by?—I believe by Mr. Gow.

Was that application made by him at the

VOL. XXIV.

society, or at one of the division meetings?—I do not know positively, but I know I refused to print something that was shown me.

I do not ask you the contents of that paper; but did you afterwards print any thing else for the society, which you were paid for by any of those persons that you have named?—Yes: I printed a posting bill.

Upon whose application did you print that posting bill?—Mr. Richter. I read it over with Mr. Richter; and I agreed to print it, and did print it.

Do you mean the same Mr. Richter that you have named as a member of the society?—Yes.

Did you ever see Mr. Richter at any of those meetings of the divisions at which the prisoner attended?—Yes.

You say you undertook to print that which Richter applied to you to print.—Yes; five hundred copies.

Who paid you for them?—Mr. Hardy, the prisoner.

Were there any directions given you as to the time by which they would be required to be printed? was there any extraordinary expedition required?—They were ordered to be done as fast as possible; and I recollect when they were done I ordered them to be sent to Mr. Hardy's; and I imagine my order was complied with.

How soon after you had ordered them to be sent to Mr. Hardy's did you see Hardy?—I dare say it was two or three days after.

Did he pay you for those which you had ordered to be sent?—Yes; but they were sent back to my house.

Did he pay before the order came for sending them back to your house, or afterwards?—No. I was paid afterwards.

And then the papers were returned to your house?—They were returned the very same day they were sent.

What became of them after they were sent back to your house? did the circumstance which you were about to state come to your knowledge from Hardy, or did you ever converse with him upon that subject?—No: never.

Do you know of your own knowledge what became of the papers after they were returned to your house?—They were given by my warehouseman to one Carter to stick up in the streets.

Mr. Erskine.—Did you see them given?—No.

Mr. Garrow.—Do you know in fact that any of those bills that you printed, and which Hardy paid you for, were stuck up in the streets of this town?—No; I could not swear that, for I did not see any to the best of my recollection.

Had you any conversation with Mr. Hardy respecting those papers which Carter was supposed to have had something to do with?—Yes.

What passed between Mr. Hardy and you

2 D



upon that subject?—Mr. Hardy informed me that Carter had been taken up.

You had given orders that these bills should be delivered to Carter; were they in fact delivered out of your possession after they were returned from Hardy's?—They were not delivered by my order to Carter.

Were they delivered out of your possession?—They were.

After that Hardy told you Carter had been taken up?—Yes, for putting up those bills, which I told him I had been informed of before.

For putting up the bills, where?—Up in the streets in this town.

Did any thing more pass upon that occasion?—No.

Do you know that Carter was in fact in prison for posting up those bills?—I heard it from Mr. Hardy. I never saw him in prison.

Look at this, and tell us whether this is one of the bills that you printed?—Yes, I believe that is the very identical bill; I have no doubt about it.

Had you any conversation with Mr. Hardy with respect to any other papers which you had been applied to to print, and which you had refused to print—did Mr. Hardy say any thing to you about your having declined to print for the society?—He did about an additional order that I had.

The first order you complied with was for five hundred?—Yes.

Who gave you the additional order?—There was an order brought, I cannot tell by whom, to me, for five hundred large bills, and a thousand small ones.

Had you any conversation with Mr. Hardy about that additional order?—Yes: he said he had heard that I refused to print them.

Had you refused to print them?—I had actually refused.

How long did you continue a member of the society after you had refused so to print for them?—In fact, I had not frequented the society for some time before that: I believe that was in the end of November, or the beginning of December.

How much was the sum he paid you?—Two guineas.

You named Mr. Margarot as one of the persons present at those meetings: in what character did he act?—He acted in the capacity of president of the delegates.

In what character did the prisoner, Hardy, act?—As secretary of the division, and likewise as secretary of the society itself, I believe.

Lord Chief Justice *Eyre*.—Was there any secretary to the division?—I do not know expressly; for I only was twice or three times at the farthest among the delegates.

Lord Chief Justice *Eyre*.—And it was there that Hardy acted, was it?—He acted as secretary to the society at large.

Lord Chief Justice *Eyre*.—Where was it that he acted?—At Mr. Byde's.

Lord Chief Justice *Eyre*.—Do you mean that that was a meeting of the division or of the delegates?—Of the division.

Mr. *Garraw*.—Were you ever at the Unicorn?—Yes; I was there once.

Try to recollect any of the members you saw there?—There were a great many there; I knew very few.

Lord Chief Justice *Eyre*.—Was that a division meeting, or what?—I believe it was the same society moved from the Bell to the Unicorn, the same society or the same division that was there,

[The address read.]

"Address of the London Corresponding Society to the other Societies of Great Britain, united for the obtaining a reform in parliament.

"Friends and Fellow Countrymen;—Unless we are greatly deceived, the time is approaching when the object for which we struggle is likely to come within our reach. That a nation like Britain should be free, it is requisite only that Britons should will it, to become so. That such should be their will, the abuses of our original constitution, and the alarm of our aristocratic enemies, sufficiently witness. Confident in the purity of our motives, and in the justice of our cause, let us meet falsehood with proofs, and hypocrisy with plainness, let us persevere in declaring our principles, and misrepresentation will meet its due reward—contempt.

"In this view, the artifices of a late aristocratic association, formed on the 20th instant, call for a few remarks, on account of the declaration they have published relative to other clubs and societies formed in this nation. It is true that this meeting of gentlemen (for so they style themselves) have mentioned no names, instanced no facts, quoted no authorities; but they take upon themselves to assert, that bodies of their countrymen have been associated, professing opinions favourable to the rights of man, to liberty, and equality; and, moreover, that those opinions are conveyed in the terms, no King, no Parliament.—So much for their assertions.

"If this be intended to include the societies to which we respectively belong, we here, in the most solemn manner, deny the latter part of the charge; while, in admitting the former, we claim the privilege and glory in the character of Britons; whoever shall attribute to us, who wish only the restoration of the lost liberties of our country, the expressions of No King, No Parliament, or any design of invading the property of other men, is guilty of a wilful, an impudent, and a malicious falsehood.

"We know, and are sensible, that the wages of every man are his right; that difference of strength, of talents, and of industry, do, and ought to afford proportional distinctions of property, which when acquired and confirmed by the laws, is sacred and inviolable.

ble; we defy the most slavish and malevolent man in the meeting of the 20th instant, to bring the remotest proof to the contrary. If there be no proof, we call upon them to justify an insidious calumny, which seems invented only to terrify independent Britons from reclaiming the rightful constitution of their country. We admit, and we declare, that we are friends to civil liberty, and therefore to natural equality, both of which we consider as the rights of mankind. Could we believe them to be 'in direct opposition to the laws of this land,' we should blush to find ourselves among the number of its inhabitants; but we are persuaded that the abuses of the constitution will never pass current for its true principles; since we are told in its first charter, that all are equal in the sight of the law, which 'shall neither be sold, nor refused, nor delayed, to any freeman what-soever;' should it ever happen that 'right and justice' are opposed by expense, by refusal, or by delay, then is this principle of equality violated, and we are no longer free men.

"Such are our notions of those rights which it is boldly maintained 'are inconsistent with the well being of society.' But let us not suffer men who avow no principles of liberty, whose favourite cry is inequality of property, to estrange others of our countrymen from aiding us in serving the community, and from recovering to the nation that share of its sovereignty which has unhappily been sacrificed to corrupt courtiers and intriguing boroughmongers.

"If our laws and constitution be just and wise in their origin and their principle, every deviation from them as first established, must be injurious to the people, whose persons and property were then secured; if at the revolution this country was adequately represented, it is now so no longer, and therefore calls aloud for reform.

"If it be true that the people of Britain are superior to other nations, is it that our taxes are less burthensome? or that our provisions are less expensive? is it from the various productions of our soil that we are rich? is it owing to the majority of our numbers that we are strong? Certainly not. France has the advantage in all these respects, and, up to this period, she has never been our superior in wealth, in power, in talents, or in virtues. But let us not deceive ourselves, the difference between us and that nation was formerly, that our monarchy was limited, while theirs was absolute; that the number of our aristocracy did not equal the thousandth part of theirs; that we had trial by jury, while they had none; that our persons were protected by the laws, while their lives were at the mercy of every titled individual: we therefore had that to fight for which to them was unknown; since we were men while they were slaves.

"The scene indeed has changed; like our brave ancestors of the last century,

they have driven out the family that would have destroyed them; they have scattered the mercenaries who invaded their freedom, and have 'broken their chains on 'the heads of their oppressors.' If during this conflict with military assassins and domestic traitors, cruelty and revenge have arisen among a few inhabitants of the capital, let us lament these effects of a bloody and tyrannous manifesto, but let us leave to the hypocrite pretenders to humanity, the task of blackening the misfortune, and attributing to a whole nation the act of an enraged populace.

"As we have never yet been cast so low at the foot of despotism, so it is not requisite that we should appeal to the same awful tribunal with our brethren on the continent. May our enmities be written in sand, but may our rights be engraven on marble! We desire to overthrow no property but what has been raised on the ruins of our liberty: we look with reverence on the landed and commercial interests of our country, but we view with abhorrence that monopoly of burgage tenures, unwarranted by law or reason in this or any other nation in Europe.

"Let us then continue with pleasure and firmness in the path which is begun; let us then wait and watch the ensuing sessions of parliament, from whom we have much to hope, and little to fear. The House of Commons may have been the source of our calamity, it may prove that of our deliverance. Should it not, we trust we shall not prove unworthy of our forefathers, whose exertions in the cause of mankind so well deserve our imitation.

(Signed) MAURICE MARGAROT, chairman.  
THOMAS HARDY, secretary.

"London,  
29th Nov. 1792."

Mr. *Edward Lauzun*.—I found this paper in Mr. Hardy's house.

[It was read.]

"4th March, 1793.

"Sir;—The London Corresponding Society have at present to acknowledge your last, and to answer more fully your preceding letter.

"With regard to petitioning parliament, we are unanimous in the opinion that such a petition will not produce a reform; yet, from many considerations, we are now persuaded that, if every society in the island will send forward a petition, we shall ultimately gain ground; for as much as it will force the present members of the senate to repeatedly discuss the subject, and their deliberations printed in the different newspapers, will most naturally awaken the public mind towards the object of our pursuit. The nation once informed that a reform in parliament is sought for from different quarters, gives rise to debates in the House of Commons, and is acknowledged by every rank to be wanting, will begin to exercise their own reason on



this subject; arrived at that period, we presume our business will be nearly accomplished.

"Let us then closely follow up our Nottingham brethren; let every society petition separately; let every week furnish a fresh petition, and afford a fresh debate. We seek to open the eyes of the public: petitions on our part, and rejections on the part of the ministry, will effectually do it: we therefore highly approve of your idea, and will ourselves follow it up, and recommend it to all the other societies we correspond with; and, withal, we recommend to you that no time be lost in so doing.

"With you, we lament the evils of an imprudent and inconsiderate war—a war rather eagerly sought for the advancement of private ends, than carefully deprecated from considerations of public good; a contest unfavourable to this country, whether either France or despotism gain the upper hand. We join with you in gratitude to those worthy members of either House who have endeavoured to avert this national calamity, to whom we have likewise returned our public thanks; and we remain, with sincerity and affection,—your friends and fellow-labourers,

— — — — —

No signature.

Addressed "Mr. William Camage,  
Sheffield."

Mr. Edward Lauzun.—I found this paper in Mr. Hardy's house.

Mr. Garrow.—This is a draught of a letter to Skirving; the original letter was found in Skirving's possession.

[It was read.]

"London, May 17, 1793.

"Sir;—The London Corresponding Society eagerly seizes the opportunity of Mr. Urquhart returning to Edinburgh to request of your society a renewal of correspondence, and a more intimate co-operation, in that which both societies alike seek, viz. a reform of parliamentary representation. We are very sensible that no society can of itself bring about that desirable end. Let us therefore unite as much as possible, not only with each other, but with every society throughout the nation. Our petitions, you will have learned, have all of them been unsuccessful: our attention must now, therefore, be turned to some more effectual means. From your society we would willingly learn them; and you, on your part, may depend upon our adopting the firmest means, provided they are constitutional: and we hope the country will not be behind hand with us.

"This war has already opened the eyes of many, and, should it continue much longer, there is no answering for its effects on the minds of the people.

"Our society has met with much persecution; nevertheless, we go on increasing in numbers and political knowledge. Wishing

you and our cause all success, we remain most cordially,—sir, for the London Corresponding Society, your friends and fellow-labourers,  
(Signed) M. MARGAROT, chairman.

THOMAS HARDY, secretary.

"No. 9, Piccadilly.

"To the secretary of the Society of the Friends of the People, Edinburgh." Addressed on the back thus:

"Mr. William Skirving, secretary to the convention of the Friends of the People, Edinburgh."

[The answer of William Skirving read.]

Indorsed, "Received the 10th of June, 1793; answered the 20th of July."

"Edinburgh, 25th of May, 1793.

"Mr. Hardy;—Sir, Mr. Urquhart did me the pleasure to call on Thursday afternoon, and delivered your letter of the 17th current. I am much pleased with the contents of it, and shall lay it before the first meeting of our societies here, which however does not take place till Monday seven-night. I would have acknowledged the receipt of your favour by yesterday's post, but was too much employed in removing our household to another lodging to attend to any thing else.

"If either you in England, or we in Scotland should attempt separately the reform which we, I trust, seek to obtain, we should, by so doing, only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking. If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set, without affecting the vitals adverse to the system of reform. These might be easily accomplished; but to cut up deep and wide rooted prejudices, to give effectual energy to the dictates of truth, in favour of public virtue and national prosperity, in opposition to self and all its interested habits, and to withstand and overawe the final efforts of the powers of darkness, is the work of the whole, and not of a part; a work to which mankind, till this awful period, were never adequate, because never till now disposed to fraternize; not merely, or only I trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence.

"I know no greater service that I can do my country, than to promote the union you so wisely desire; and I am happy to assure you that I have hitherto discovered no sentiment in our association adverse to the most intimate and brotherly union with the associations in England.

"I think the minds of all must, in the nature of things, be now turned to more effectual means of reform. Not one person was convinced of the necessity of it by the most convincing arguments of reason, together with the most unequivocal expressions of universal

desire; what then is to be hoped for from repetition? I am only afraid that the bow in England against reform was so contracted that in returning, it may break. You would willingly learn, you say, from us: I own that we ought to be forward in this: we have at once, in great wisdom, perfected our plan of organization; and, if we were in the [same independent state of mind as the people of England, we would be able to take the lead. The associations with you are no more, I fear, (excuse my freedom) than an aristocracy for the good of the people: they are indeed moderate, firm, and virtuous; and better cannot be: but we are the people themselves, and we are the first to show that the people can both judge and resolve, if undirected by faction, with both wisdom and moderation.

"I have not a higher wish, in the present exertions for reform, than to see the people universally and regularly associated, because I am persuaded that the present disastrous engagements will issue in ruin, and the people then must provide for themselves; and it would be unhappy, when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue. We will not need but to be prepared for the event, to 'stand and see the salvation of the Lord.' Let us therefore take the hint given us by our opposers; let us begin in earnest to make up our minds relative to the extent of reform which we ought to seek; be prepared to justify it, and to controvert objections; let us model the whole in the public mind; let us provide every stake and stay of the tabernacle which we would erect, so that when the tabernacles of oppression in the palaces of ambition are broken down, under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it!

"How hurtful to the feelings of a reflecting mind to look back to the wretched state in which the Roman monarchy, enfeebled and broken by its own corruptions, left the nations which it had subjected! like 'sheep without a shepherd, they soon became a prey to every invader, because there was none to gather and unite them: had they, foreseeing the evil, associated for mutual defence, no robber would have been able to enslave them; they would have given laws to all parties, as well as to themselves; all separate colonies and nations would have sought their alliance: but not having virtue to associate and heal the divisions, and root out the selfish spirit, which ambition-fostering governments procure to their subjects, they fell under oppressors, from under whose iron sceptre they have never yet been able to deliver themselves.

"We may suppose an event which we deprecate; nay, should we not be prepared for every possible issue of the present unprecedented divisions of mankind, we have a right

to be apprehensive of the abilities of our own managers, who are so afraid to depart from precedent, that, like men of detail, they may be inadequate to the task of preserving the vessel from shipwreck, now grappling with danger, not only great, but new and uncommon. If the present ministry fail, who after them shall be trusted? It requires little penetration to see the anarchy and discord which will follow: it will be such that nothing short of a general union among the people themselves will be able to heal: haste, therefore, to associate, at least to be ready to associate. If then, such a broken state of things should take place, the civil broils that would necessarily ensue, would soon subside before the united irresistible voice of the whole. Do not, I entreat you, hesitate thinking such a work premature as yet: but a month, and then it may be too late. A malignant party may be already formed, and only waiting for the halting of the present managers; it will then be too late to seek to subject to deliberation, after a party has dared the act of rebellion. If you go no further than separate meetings in different towns, we will not be able to confide in your confraternity, because, while in such a state, you may be but the tools of a faction. We could have all confidence, and unite with all affection in one assembly of commissioners from all countries of the world, if we knew they were chosen by the unbiassed voice of the people, because they would come up with the same disinterested views and desires as ourselves, having all agreed to a common centre of union and interest; but we could not confide in fellow-citizens who kept aloof from such union, and would not previously affiliate in one great and indivisible family.

"In troubling you with so long an epistle, I have at least shown my inclination to correspond. I have also hinted at things which appear to me the present subjects of consideration, because I am desirous of your opinion upon them; I have possibly wrote with too much freedom, but you will place it to account of zeal in the cause, and on this score discharge my design, which is disinterested and philanthropic. With sincere esteem and affection, I am, sir, your well-wisher,

"W. SKIRVING, secretary."

Mr. Lauzun.—I found this paper in Mr. Hardy's possession.

[It was read.]

"10th June, 1793.

"Sir;—It is with singular satisfaction the committee of the London Corresponding Society received your letter; they are very glad to see the spirit of freedom springing up in Birmingham; and they make no doubt but that the zeal of your society, and the increase of your numbers, will soon do away the stigma thrown on your town by the unjustifiable behaviour of a church and king mob. We are entirely of your opinion with regard to



the necessity of a general union; and we believe, as you do, that when once the country shall have so united, the Neros of the day will be forced to yield to the just demand of a long and sore oppressed people.

"With pleasure we accept your proffered correspondence, and earnestly beg of you to let us hear from your society by every opportunity. We wish likewise you would point out to us some safe mode of conveyance for such informations and publications as we may think necessary to be transmitted to you. The post we no ways rely on, as many of our letters have already been intercepted.

"If any of the members of your society should have occasion to visit this metropolis, we hope you will not let him come without a letter from you, and that while they stay here they will frequently assist at the meetings of our several divisions, and by thus associating, commence an union which we hope soon to see spread itself all over Britain.

"We will not enter into a detail of our grievances; we are equally well informed thereon, and all alike thoroughly convinced, that nothing short of annual parliaments and universal suffrage can restore to us that degree of civil liberty we are justly entitled to, &c. &c.

"M. M.—c.

"T. H.—s.

"To Mr. T. Kilmister, secretary to the Birmingham Society for Constitutional Information."

Mr. Lauzun.—I found this paper in Mr. Hardy's house.

[It was read.]

"The Political Societies of Norwich to the secretary of the London Corresponding Society."

Indorsed, "Received the 25th of June, 1793; answered the 25th of July, 1793.

"Sir;—I lately received your letter from Mr. ———, dated April 22, which, through multiplicity of business, we have omitted to answer—hope you will excuse the delay. We also received your friendly letter, prior to that, wherein you stated three propositions: first, a petition to his majesty, or to parliament, or a national convention, and ordered one of our committee to answer it. Should be glad if you will inform me whether it was attended to; I gave my opinion on the subject to the Constitutional Society of London, and found their ideas congenial to my own, viz. an address to the king—futile; a petition to parliament (as a conquered people)—tolerable; a national convention (if circumstances admitted)—best of all. To what an alarming crisis are we arrived!—the junto is formed and established—the people become a prey, and (to adopt the phrase of an Hibernian apostate) are treated as a swinish multitude, except the privilege of fattening. Wars must commence at the caprice of individuals; people torn from their houses to be butchered;

windmills must be attacked, at the risk of being carried over and dashed to atoms; the nation drained of its sustenance to support a league, &c. &c. &c. Many epithets may with great propriety be applied, excepting such as Fox, Sheridan, Grey, Erskine, Lansdowne, Lauderdale, Stanhope, Paine, Priestley, Tooke, Wharton, Macleod, Barlow, Mackintosh, Cooper, besides many who have suffered under the iron hand of, &c. and when the people have complained, and humbly requested a removal of abuses, they have been treated with insult. Alas! where is the majesty of the people? An indifferent observer would suppose it to center in stars and garters, ribbons, and costly apparel, palaces, coaches and horses, with all the trumpery of puerile amusements; and were it not for their accursed consequences, we could bear with it; but when we consider how many sweat, and toil, and starve, to support it, how can we be persuaded but that there is a contrivance between the land owners and the merchant to hold the people in vassalage? for they eat up the people as they eat bread; the influence of the aristocracy and hierarchy is become very alarming, for they have absorbed and swallowed up the people; but a rumour is spread from the south, and it is terrible to tyrants; it stings their mind—it galls their flesh—and like Pashur, are a terror to themselves, lest the people should assert their rights, yours, &c.

"H. BUCKLE."

"Please to direct to H. Buckle."

Mr. Garrow.—We now propose to read an answer to the last letter, found in the possession of the prisoner.

Mr. Lauzun.—I found this paper in Mr. Hardy's house.

[It was read.]

"London 25th of July, 1793.

"Fellow Citizen;—The London Corresponding Society have received, and read with pleasure, your letter of the 25th of June; but the answer which you mention to have been made to our three questions has not yet come to hand. We shall be glad to be informed in your next, whether it was ever put in the post-office.

"With regard to the questions themselves, however individuals may have made up their minds on them, the public seemed most to approve the mode of petitioning parliament. We accordingly acquiesced, and sent in a petition signed by near 6,000 persons. With this letter you will receive a copy of it; and with its fate you are doubtless not unacquainted.

"While we agree with you, that the people are treated like swine, we are forced to acknowledge, that some among them, from their sloth and ignorance, scarcely deserve better usage; however, unceasingly labouring to meliorate their condition as well as our own, and convinced that a thorough parliamentary reform is the only means of effectuating it, we

firmly pursue our purpose, and in the most conspicuous manner; under the eye of the court, in the middle of the metropolis, and in the very nest of place and pension hornets, the tavern where Reeves, the tool of the junto, holds his inquisitorial tribunal, have lately held a general meeting of the society, sent forth an address to the nation, and entered into some spirited resolutions; a few copies of which we desire you to accept, and promulgate as far and as wide as you can; at the same time rest assured, that the firmness displayed therein is not confined to words, but that on every occasion our society will be found foremost in asserting and recovering the liberties of their country.

"Exhorting you, therefore, to throw aside all unavailing complaint, we wish you to occupy yourselves in instructing the people, in introducing and maintaining order and regularity in your own society, and in forming a junction with all others associated for the same purpose throughout the nation, by keeping up a constant correspondence with them; but, above all, orderly and courageously preparing yourself for the event; for as it is natural to suppose that those who now prey on the public will not willingly yield up their enjoyments, nor repossess us of our rights without a struggle, which by their behaviour in Ireland we have some reason to think they are meditating, and perhaps may intend to effect by means of those very foreign mercenaries who are now paid by the sweat of our brow, and whom, under some plausible pretence, it would be no difficult matter to land on our shore. It may be more advantageous to humanity to show them at first, that their opponents are neither mob nor rabble, but an indignant oppressed people, in whom is not yet entirely extinct the valour of their forefathers.

"Union and increase being then our only resources, let us diligently exert ourselves therein with zeal and patience, removing ignorance and prejudice with firmness, and a consistent behaviour; encouraging those who join us; and above all, avoiding little bickerings among ourselves, ever discountenancing selfish jealousies and private animosities, and cordially joining with heart and hand in the common cause.

"Your neighbourhood must severely feel the dreadful consequences of an iniquitous, depopulating, and ruinous war; but you are not the only sufferers. From various parts of the country we learn, that the war abroad has already spread desolation at home; yet such is the blindness of some folks, that they talk of its being continued for years. Peace we wish to all men; but to such friends destruction. Let us hear from you soon, and let our future correspondence be more regular. We are with sincerity, fellow citizens, for the London Corresponding Society, as your friends and fellow labourers for the good of our country,

M. M.  
T. H."

Mr. *Erskine*.—My lord, I should wish to put a question—the answer to which, indeed, I already foresee—whether my friends across the table think there will be any probability of their being able to finish their evidence within a time that human nature is equal to pay attention to it; because if not, to be sure your lordships will be under the necessity of taking some step to hear this extraordinary cause in a manner consistently with that justice which is due both to the Crown and to the prisoner. I confess, that for one, I do not feel myself at all fatigued, and am extremely ready to go on, and to remain here any length of time which my duty to the prisoner can possibly require; but if the evidence on the part of the crown should go on to such an extent as that it would be impossible either for your lordships or the jury to give any farther attention (and your lordships and the jury are but men), then the prisoner's defence could not possibly be heard; therefore, I should humbly suggest, if your lordships find it is in your power to put this into any train,—I would ask my learned friends, whether they can finish their evidence to-night?

Mr. *Bower*.—It is impossible.

Lord Chief Justice *Eyre*.—What is your own judgment as to the course we ought to pursue? Mr. Attorney General, have you nearly concluded your evidence?

Mr. Attorney General.—Not half.

Mr. *Erskine*.—It is very material for us that the jury should hear—

Lord Chief Justice *Eyre*.—As to what is now hinted at, it is matter of very great importance to the public justice of the country in every view of it. It is undoubtedly a general rule, that there is to be no adjournment and no separation of the jury after the evidence is entered upon, until the jury have given their verdict.\* That is a rule which I shall never willingly depart from, nor ever consent to depart from but in a case of extreme necessity, and where therefore the necessity of the case will justify a deviation from the strict rule of law.

I think the necessity does exist in every case in which it shall appear that the cause will go into such a length that the attention of a jury cannot be kept alive to it throughout, without the assistance of some refreshment; and where, from that length, they cannot have that assistance from the Court, which by law they are entitled to have; provided that necessity, therefore, is apparent in this case, I should certainly readily incline to enter into a consideration of the question, whether we can, and, if we can, whether we ought to adjourn; and in what way it may be done.

I know that, in point of fact, there was an adjournment in one criminal case: but that was a

\* As to this see the note to Langhorn's case, *antè*, Vol. 7, pp. 497, *et seq.*; and the case of Lord Delamere; Vol. 11, p. 559. See also Vol. 17, pp. 1163, 1164.



misdeemeanor : there was a doubt started whether in that case, though the court adjourned, the jury should not be kept together. I have not been able to learn with any certainty what the fact was ; but there is one circumstance from whence I do conclude that, in truth, the jury could not have been kept together during the whole of that time, because the adjournment there was over an entire day at two different times in the course of the hearing of that cause ; and I have no imagination that the jury were kept together during all that time, unless the adjournment over the day was only for a few hours ; but it is so long ago, that few people remember how it was ; I conceive that, under that adjournment, the jury must have been allowed to separate.

I am not satisfied that, in strict law, there is a clear distinction between the case of allowing a jury to separate in a misdemeanor and in a capital case. I believe the rule of law is the same ; and I am inclined to think that the strict rule was, that, even in a civil case, the jury could not separate after the case was once gone into.

In the 14 Harry 7th, there was a question debated in the Exchequer Chamber (it is in the year book) upon the effect of the jury having, in consequence of a violent storm to which they were exposed, separated for a time ; they afterwards returned again, and delivered their verdict. But the principal doubt that arose in that case, was the circumstance of a juryman having taken some refreshment from the hand of a friend of one of the parties ; however, that question never was decided ; and I do not know that there is any other case in which the question has been much considered : therefore, if the counsel for the prisoner make the application to the court upon the ground of a necessity interesting to the prisoner, and if the counsel for the prosecution consent to that application upon such grounds as are proper to influence the judgment of the prosecutor, it seems to me that, in some way or other, it would be right that an adjournment should take place. I should have no difficulty with regard to the Court ; the difficulty that occurs to my mind is with regard to the separation of the jury. Regularly, and properly, and agreeably to the ancient course, the jury ought to be kept together.

There are a great number of civil cases in the old books where the jury could not agree, or something happened in the course of the cause that made it necessary for the Court to be consulted before the cause could proceed. The practice was where the jury was sent for from the country to Westminster-hall, there a hostel was provided for them, and they were always sent back to their hostel : there they were attended by an officer, and kept from all communication : but modern times have totally changed the habits of business, and there are hardly any traces of that now left, and that sort of thing is impracticable.

I made some inquiry what might be done (the subject, you see, was not totally out of my thoughts) if it should so happen that the necessities of public justice should extort from us a departure from the general rule : and the sheriffs, who have been always disposed to do what is right for them to do, and to give us all the assistance that is possible, did promise that they would endeavour to accommodate the jury in this house : whether that can be done, or whether we can depart even from that strictness, and suffer the jury to go to their own houses, upon the application of the prisoner and the consent of the prosecutor, taking their word of honour that they would have no communication with any body upon the subject of this cause ; that is a question upon which I should much wish to hear what my brothers have to say, after asking the question again of the sheriff, what can be done here?

Mr. Sheriff *Eamer*.—My colleague and I have made the best provision the place will admit ; we have prepared a room and beds.

Lord Chief Justice *Eyre*.—It is a distressing thing to put the jury into these circumstances, which I should be sorry for, but it is better than sitting up for three days and two nights, which, for any thing I can see, must be the case. I am very ready to take my share of the fatigue, but my apprehension is, that the cause cannot be so effectually tried as it would be if the Court and jury had the refreshment of food and rest.

Mr. *Erskine*.—It is impossible to figure to one's self a more delicate situation than that which we hold who stand as counsel for a person who is upon trial for his life ; at the same time, my lord, I can have no difficulty in saying that I should think the prisoner at the bar perfectly secure in taking the solemn word of honour of each gentleman upon the jury that he would not be approached (as no gentleman upon the jury would be approached) by any man living upon the subject of the cause : and I am very sure that, if I could not depend upon the word of honour of each gentleman of that jury, in fulfilment of that pledge, I should address them to very little purpose, even upon their oath. I shall recommend, as to the prisoner at the bar, to give that indulgence to the gentlemen, under the very peculiar circumstances of the case.

Lord Chief Justice *Eyre*.—I think it is not simply that he may give that indulgence, I think he must ask it as necessary to his defence.

Mr. *Erskine*.—I certainly advise him to ask it. I ask it upon the difference of being in this house or going to their homes. The gentlemen seem to have paid very great attention to this cause hitherto ; it is my earnest wish they may do so throughout, to the evidence on the part of the crown as well as to the evidence on the part of the defendant ; and I am willing that they shall be as free as air, with the single restriction, that they will

not suffer themselves to be approached in the way of influence; and the gentlemen will not think it much that that should be required, considering the very peculiar nature of this case.

Lord Chief Baron *Macdonald*.—The reason why the jury should never separate was, that they should not give in their verdict under any improper impression: but if that should superinduce an utter impossibility that justice could be done either by the jury or the bench; nay, by the witnesses possibly, whose recollection, if they sit up for many hours, must be extremely imperfect: and if the gentlemen at the bar cannot do justice to their clients on either side,—if that is the case, and justice cannot be done, you must look to the prisoner, his case requires equal regard. The prosecutor's evidence had the opportunity of being heard when the jury were fresh; now, if they are incapacitated to attend to his case in the way that his case requires, justice will not be done to him.

If we are under the absolute necessity of departing in some degree from the strict rule, I think we should depart as little as possible; and, therefore, I confess the only hesitation in my mind is between the jury's being accommodated here and their going home to their own houses; I have a great deal of difficulty, I own, about that.

Mr. *Erskine*.—I wish to be understood that it was a matter of great indifference to me, and it only arose from a desire I had in my mind that the jury should not be deprived of going home to their own families for want of a consent from me, and I am persuaded I hazard nothing by that consent.

Mr. *Garraway*.—We have the same anxious desire, provided it can be done consistently with the rules of law, that the jury may be accommodated.

Lord Chief Justice *Eyre*.—If the jury live at a great distance, they might rather choose to sleep here.

One of the Jury.—I live at Marybone, and am rather an invalid, but I would rather go home.

[Several of the jury said they wished to go home.]

Mr. Baron *Hotham*.—Mr. *Erskine* stated himself to be in a very delicate situation, which he certainly is; and it is impossible for him not to see that the Court also are in a very delicate situation; because, as to ourselves, if the adjournment is to take place, every body knows that there is no reason why we should be kept in this house; we may go to our respective homes; at the same time, there never has been an instance of a jury separating, and going away in the manner that is now proposed. I confess I think that there may be very serious consequences from it. As to the necessity, I think nobody can resist it; it is evident that the trial must go to such a length, that it cannot be proceeded upon safely without some sort of an adjournment of that kind; but I do foresee very

VOL. XXIV.

serious difficulties hereafter, as well as perhaps in this very case, in gentlemen going home, and separating themselves. It is a very delicate and unpleasant situation to be obliged to say to gentlemen that they must be kept here all night; but really, if I am forced to speak, I think that they ought not to separate.

Mr. Justice *Buller*.—Here is an alderman who remembers the trial of *Bet Canning*;\* he informs me that, to his knowledge, the jury went home during that trial.

Mr. Alderman *Newman*.—I remember it perfectly well; I spent the evening with one of the jury.

Lord Chief Justice *Eyre*.—Do you think you are able to go on all night? if you do go on all night we shall make but a certain progress, and I am afraid we shall be in no condition to pursue our business to-morrow.

Mr. Justice *Buller*.—I understand the sheriffs have beds prepared here for all the jury.

Mr. Sheriff *Eamer*.—There are beds and mattresses prepared.

Lord Chief Justice *Eyre*.—The rule of law is clear beyond all doubt; at the same time, the necessity of public justice arises distinctly and visibly, and is felt by all mankind: in my apprehension, that will justify a departure from the strict rule, but it will only justify that departure as far as the necessity goes, and there the difficulty is: but, to be sure, if the jury can be accommodated, and can have that refreshment which is necessary to go on, without separating, then the necessity I have been speaking of does not carry them through the whole case of being allowed to separate. As there is no doubt in any body's mind about it, we must desire the sheriffs to give the jury all the accommodation they can furnish them with, and we must desire of them to submit to a difficulty which I am very sorry is imposed upon them, but which I do not see any means of avoiding. Bailiffs must be sworn to attend the jury. The counsel for the prisoner will observe, that the record must be made up as of the first day of the trial.

Mr. *Erskine*.—Be it so, in the most emphatical way, for the purposes of law and justice.

[Four bailiffs were sworn to attend the jury.]

Mr. *Erskine*.—My lord, all this immense body of papers has been seized, and been a long time in the hands of the officers of the crown.—We applied to see them, but were refused—we applied to the privy council, and were refused—we were referred to your lordship, because they knew your lordship could not grant such a request—we are therefore here with all these papers tumbled upon our heads, without the least opportunity of examining them, and yet from this mass of papers, which

\* See the case in this Collection, Vol. 19, p. 283.



the attorney-general took nine hours to read, the act of compassing the king's death is to be collected. From a view of the whole, I trust your lordships will be disposed to indulge me—indeed I shall expect, in justice to the prisoner, that I may have an opportunity, before I address the jury upon this mass of evidence, to know what is in it, because your lordships must very well know that, though taking all the pains I can to look at it as it is read, yet it is quite impossible for the human mind to take it in, or form any idea of it, without an hour or two at least (for I should not require more) to take it into consideration. When I look across the table, and see I am addressing myself to hon. gentlemen of the profession, who know the situation I am in, I cannot doubt their consent—and the reason I mention it now is, that there may not be any inconvenience to your lordship in praying this upon the sudden.

I declare, upon my honour, as far as relates to myself and my friend who is assigned as counsel for the prisoner, we have no design whatever to trespass upon the time and patience of the Court, and your lordships have seen to-day how little of your time we have consumed—we have no desire upon earth, I appeal to God in it, but to do our best, to do justice to the person your lordship has assigned us counsel for.

Lord Chief Justice Eyre.—We shall certainly be disposed to give the counsel for the prisoner all reasonable opportunity to make the best defence the nature of the case is capable of. I observe the greater number of papers that have been read, and the most important as yet, are papers that are printed, and before us, therefore, there can be no difficulty as to them, for I have no doubt that the printed papers have been very well considered.—To-morrow we shall see what the papers will be; if there are any which appear to us, or shall appear to you, to be papers that require a careful casting your eye over before you prepare for your defence, I shall certainly propose to the Court that you should have a reasonable opportunity for so doing.

Mr. *Erskine*.—Those that are printed are thrown together, your lordship must observe, in a strange way.

Lord Chief Baron Macdonald.—With respect to the complaint of the privy council, there is no instance, I believe, of their ever suffering such a communication.

Mr. *Erskine*.—I am not complaining of the privy council—we were referred by the privy council to the crown, and by the crown to your lordship.

Lord Chief Justice Eyre.—I do not think it possible for the Court to have interfered upon any ground. It is one thing to permit the prisoner to see the evidence that is to be made use of against him, and it is another thing, if it should so happen, that in the seizing of his papers, there are papers not fit to be made use

of against him, but that are necessary for his defence, that such papers should have been seen; in that case, I apprehend that upon an application to the privy council or the secretary of state, that they would do what public justice requires—order access to such papers. The papers which are to be produced by the prosecutor, a prisoner never has by law, nor ought to have an opportunity of examining till they are produced in evidence. Papers that are not necessary for the prosecution, but necessary for his defence, come under a very different predicament, and I think the rule held upon them would be very different.

Mr. *Law*.—The papers in the case of Mr. Sayre \* had been seized, and the chief justice said, give notice of the papers you want, and move for them.

Lord Chief Justice Eyre.—If you asked to look at those papers which were intended to be produced against you, I do not think that was right.

Mr. *Gibbs*.—We asked to look at that book, that we might see what papers were necessary for our defence.

Lord Chief Justice Eyre.—I believe we had better not discuss the thing now.

Adjourned (it now being a quarter past 12 o'clock on Tuesday morning) to eight o'clock.

Sessions House in the Old Bailey, Wednesday, Oct. 29th.

Present,—Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Buller, Mr. Justice Grose, and other his majesty's justices, &c.

Thomas Hardy set to the bar.

Mr. John Gurnell.—I found this letter among the prisoner's papers.

[It was read.]

London, the 5th Oct. 1793.

"Dear Sir;—With pleasure I peruse your favour of the 2d inst. but as yet have seen nor heard nothing of the two copies of Mr. Muir's trial, which you mention as being sent to the society and myself; be kind enough, notwithstanding, to return that gentleman thanks for his polite attention, and assure him, that we view him in the light of a martyr to freedom as well as Mr. Palmer, and that our warmest hopes are, that the oppressors of mankind will either be ashamed or afraid of carrying their revengeful malice into execution.

"The general convention which you mention, appears to Mr. Margarot (to whom alone I have communicated your letter) and myself, to be a very excellent measure; and as such,

\* The case of Sayre v. the earl of Rochford is reported in Vol. 20, p. 1285, of this Collection.



I could wish you without delay to communicate it officially to our society, without any ways mentioning that you had written to me privately. If, in your official letter, you should require of us to send a deputation to that meeting, I have no doubt but our society would with pleasure accept the invitation; and I am persuaded it would do much good. Our freedom, as you justly observe, depends entirely upon ourselves, and upon our availing ourselves of this opportunity, which, once lost, may not be soon recovered. I am glad to discover by your testimony, that I was not mistaken in the high opinion I always had of lord Daer's patriotism; a title may be a bar to disinterested patriotism, but it seems he has evinced it not to be an insuperable one.

"You are right; it is true, that we have had another general meeting, at which a hastily composed, and suddenly produced address to the king was read, applauded, and agreed to be presented, but on a cool revisal, the said address being found to be more ill-natured than spirited, more dangerous in its language than advantageous in its object, besides being too long, the committee, with the approbation of the society, have adopted another, much safer, more apposite, and relating solely to the war—inclosed you have a copy of it. But you was misinformed, when you was told we passed any resolution at that meeting, for we only came to one, and that rather of a private nature, namely, that the conduct of sir James Saunderson in preventing the meeting of the London Corresponding Society at the Globe tavern, Fleet-street, was of such a nature as to place him below our censure.—Dear sir, please to write to the society as soon as possible, officially. I am, most sincerely,—your fellow labourer, and well-wisher,

THOMAS HARDY.

"P. S. Mr. Margatot desires to be remembered to you in the most affectionate manner. Do not in future, on the address of your letters to me, mention any thing of the London Corresponding Society, for it was a thousand to one that I received that letter by post.

"Mr. Wm. Skirving, Head of the Horse Wynde, Edinburgh."

Mr. Thomas Maclean.—I found this letter at Mr. Adams's.

Mr. Wood to Alexander Grant.—Look at the indorsement on this letter. Do you believe that to be the prisoner's hand-writing?—The indorsement is—"To be returned to the committee on Thursday next."—I believe that is Mr. Hardy's hand-writing.

[It was read.]

"Edinburgh, Oct. 5th, 1793.

"Brother Hardy;—The letter and this paper will explain themselves. I was at a meeting on the day this mentions, and the determination of the association are universal suffrages and annual parliaments, and it was the unanimous desire and wish of that meet-

ing, that two persons, if possible, should be sent from our society in England, as delegates, to meet our dear northern friends in the ensuing convention. I must earnestly desire the said wish of our friends here may be complied with, as it will add to the dignity of our association in particular, and to the convention in general, and will further the common cause much, in a way the judgment of our association must hit upon, without any explanation of mine. If any person could be elected of sound principles, a clear understanding speaker, with a long head and a good warm heart in the cause of freedom, having it in view, and not his own aggrandizement, such a delegate would be of great service. If such a one is chosen, he must be here by the twenty-ninth day of this month, as the convention meets on that day; and if my poor feeble efforts will be of any service to the convention as the other delegate, the London Corresponding Society may command me for the support of their interests as far as I am capable; but those of you who know me, know I am no speaker, much less an orator, but this I will say, my heart lies in the right place, and hates and abhors all despots. Please to communicate this to our friends, and let me know the society's determination, if they will honour me with their confidence. I am often with our friend Muir; he bears his confinement with a fortitude of soul, inspired with the genius of liberty; he is well. I have much to say, but I must leave off. This letter will be delivered by my servant, which must have a speedy answer, because of the approaching meeting here. Every thing of moment I will communicate to you from time to time; and wishing destruction to all human butchers, and success to all friends of liberty, I remain, brother Hardy, yours to command,

A. CALENDER."

"My servant will show you my direction."

Mr. William Scott sworn.—Examined by Mr. Wood.

Where did you find this paper?—It was found among the papers of William Skirving, secretary to the convention at Edinburgh.

Alexander Grant said he believed it to be the prisoner's hand-writing.

[It was read.]

"London, 25th Oct. 1793.

"Dear Sir;—According to promise, I have this day to acquaint you, that we had yesterday a general meeting of the London Corresponding Society, for the purpose of taking into consideration your kind invitation to send two delegates to the convention which is to be held in Edinburgh. The society have for that purpose made choice of Maurice Margatot and Joseph Gerrald, who will both be with you shortly, and will deliver into your convention their vouchers of delegation. For the recital of the curious incidents attendant on our general meeting, I refer you to the dele-



gates themselves. I am, most sincerely,  
your respectful friend and well-wisher,

"THOMAS HARDY.

"No. 9, Piccadilly.

"Mr. Wm. Skirving, head of the  
"Horse Wynde, Edinburgh."

Mr. Wood to Mr. William Scott.—Where  
was this paper found?—It was found among  
Skirving's papers.

Mr. Gibbs.—You found this yourself, I sup-  
pose.—I did not.

Then you should not have answered in that  
manner.—The question was put in such a  
way that I thought I was bound to give a  
direct answer. I will explain the circum-  
stance. On the 4th of December, the pro-  
ceedings of the convention had attracted the  
notice of those in Edinburgh who had the  
charge of the police.—

Mr. Gibbs.—We do not want all this; we  
only want to know whether you saw this  
found, or saw it in his possession?—I did not  
see it.

Lord Chief Justice Eyre.—What do you  
know about the paper?—A warrant was  
issued at my instance; the papers found in his  
possession were put into two bags and sealed  
up; the bags were brought sealed from  
Skirving's lodgings to the office where he was  
examined.

Lord Chief Justice Eyre.—Where were  
you at that time?—I was present in the office  
when he was examined.

Lord Chief Justice Eyre.—Then the first  
time you saw any thing of this paper was  
when it was produced at the office by a person  
who brought it in a sealed bag: is it so?—  
Yes.

Mr. Wood.—And opened in the presence of  
Skirving?—Yes.

Lord Chief Justice Eyre.—He has proved,  
that upon a warrant having issued to appre-  
hend Skirving, there was a sealed bag brought  
to the office; Skirving was present, and that  
sealed bag was opened, and the letter was  
produced.

(To Alexander Grant.)—Look at the signa-  
ture to this paper; do you believe that to be  
the prisoner's hand-writing?—Yes, I believe  
it is.

Do you know any of the other signatures?  
—I do not.

[It was read.]

"Articles of Instruction given to citizen  
Joseph Gerrald, delegate from the Lon-  
don Corresponding Society to the ensuing  
convention in Edinburgh, for the purpose  
of obtaining a thorough parliamentary  
reform.

"1st. He shall on no account depart from  
the original object and principles of this so-  
ciety, namely, the obtaining annual parlia-  
ments and universal suffrage by rational and  
lawful means.

"2nd. He is directed to support the  
opinion, that representatives in parliament  
ought to be paid by their constituents.

"3rd. That the election of sheriffs ought  
to be restored to the people.

"4th. That juries ought to be chosen by lot.

"5th. That active means ought to be used  
to make every man acquainted with the  
rights and duties of a jurymen.

"6th. That the liberty of the press must  
at all events be supported, and that the publi-  
cation of political truths can never be crimi-  
nal.

"7th. That it is the duty of the people to  
resist any act of parliament repugnant to the  
original principles of the constitution, as  
would be every attempt to prohibit associations  
for the purpose of reform.

"8th. That this society, considering all  
party names and distinctions as hostile to the  
general welfare, do absolutely restrict their  
delegate from assuming or accepting any  
thing of that nature.

"9th. That this society further require,  
that the delegate shall be punctual and  
frequent in his correspondence with this so-  
ciety.

Rd. HONGSON, chairman.

THOS. HARDY, secretary."

"General Meeting, 24th Oct. 1793.

"Instructions to citizen Gerrald,  
London Corresponding Society, No. 3."

Mr. Wood to Mr. William Scott.—Were  
these papers found in the same manner?—  
Yes, both these were found at the same time.

Alexander Grant said he believed this to be  
the prisoner's signature.

[They were read.]

"At a general meeting of the London Cor-  
responding Society, held at citizen Briellat's,  
Hackney-road, 24th Oct. 1793.

"This is to certify, that Maurice Margarot  
was this day duly elected a delegate to rep-  
resent this society at the ensuing convention to  
be held at Edinburgh, for the purpose of ob-  
taining a thorough reform in the parliamen-  
tary representation of Great Britain.

"RICHARD HONGSON, chairman.

"THOMAS HARDY, secretary.

"Certificate to Citizen Margarot, London  
Corresponding Society.

"Mr. Wm. Skirving.

"Certificate of citizen Margarot."

"At a general meeting of the London Cor-  
responding Society, held at Citizen Briellat's,  
Hackney-road, 24th Oct. 1793.

"This is to certify, that Joseph Gerrald  
was this day duly elected a delegate to rep-  
resent this society at the ensuing convention to  
be held in Edinburgh, for the purpose of  
obtaining a thorough reform in the parliamen-  
tary representation of Great Britain.

"RICHARD HONGSON, chairman.

"THOMAS HARDY, secretary."

\* See his trial for seditious words, Vol. 22,  
p. 209, of this Collection.



"Citizen Gerrald's commission, London Corresponding Society. Signed Thomas Hardy.

"Mr. Wm. Skirving.

"Certificate of Citizen Gerrald."

Mr. William Scott.—These papers were found in the same way, and at the same time.

Alexander Grant said he believed the signatures to be the prisoner's hand-writing.

[They were read.]

"London, Nov. 8, 1793.

"Fellow Citizens;—I duly received your favour of the 4th instant, and laid it before the committee of delegates last night, who were anxiously waiting for intelligence from Edinburgh, and were well satisfied with the agreeable account of the great number and zeal of the friends of freedom in Scotland. That part of your letter which mentions your visiting different towns in Scotland, for the purpose of promoting the cause, they were pleased with the idea, but they thought that it could not be put in practice on account of the necessary supplies, which come in but very slowly. It is to be mentioned in the different divisions. We have elected J. Baxter (by ballot) as chairman of the committee for the remainder of the quarter. We have also appointed a committee of constitution, separate from the committee of delegates; one member is chosen from each division, to meet on this night for the first time, and to be totally unconnected with the committee of delegates. We still increase in number, and the address to the king to put an end to the war is ordered to be advertised to receive signatures in the Courier, Chronicle, Ayres's Sunday Gazette; afterwards by hand-bills, &c. We have opened a correspondence with a new society at Bristol. I have to inform you of the wish of the society that you would favour them with the number of delegates in the convention, and the number from England also, and how the civil and military power relishes your meeting; and that you would send such a report from the convention as might appear in the newspapers in London. Send me an Edinburgh Gazetteer when there is any thing in it of importance. I would have sent you a Courier, but they informed me that they sent several to the coffee-houses and taverns in Edinburgh; for that reason, I thought it unnecessary. I hope to have more time to write to you more fully next time. As, sir Joseph Murray says, the post is just going off, no more at present from

"THOMAS HARDY, secretary."

Addressed on the back:

"Mr. Margarot and Mr. Gerrald, delegates from London."

"London, Nov. 15, 1793.

"Fellow Citizens;—I received your official letters of the 7th and 12th, and Maurice Margarot's private letter of the 11th, all in

due course. At the committee of delegates last night, after hearing the report of the different delegates—the rapid influx of new members—there was several places mentioned in different situations in town, both in public and private houses, for new divisions of the London Corresponding Society to meet at—some have already taken place, others will next week.—Afterwards, the correspondence was taken into consideration. Your official letter was read, and much approved of, and copies of it taken for the use of the different divisions. It seems to be the general wish of the different divisions of the society for you to continue as long as you can be of real use to the cause; but it wholly depends upon the thing necessary, money. We have hit upon an expedient, which we mean to put in practice in two or three days, that promises fair to bring in a considerable revenue. I shall inform you of it in my next. Those whom you gave directions to call upon has fallen far short of that liberality which you expected. The committee last night gave me orders to transmit to you twelve guineas; I enclose you a draft on sir William Forbes, and Co. for that sum. Next week I hope to be able to send you more. There was another report of Mr. Frost being to be pilloried on last Tuesday and Wednesday; but it happened that, on Wednesday, a Charles Leslie stood in the pillory at Charing-cross for a crime shocking to mention. Mr. Frost is not very well at present. The Constitutional Society have adjourned for a month from last Tuesday. The reason why Mr. Yorke did not go from that society was, that he wrote a letter to them, informing them that he would not go unless they would pay him the whole of the money down. I have only given you a summary account of our proceedings; but you know how I am situated both in the day and in the evenings, that I cannot command a quarter of an hour to myself; therefore I hope you will excuse me for being so laconic. I have made the situation of Mr. Muir as public as I could; it throws a damp upon the spirits of every friend to humanity who hears of his cruel treatment. I remain your fellow-labourer in the good cause.

(Signed) "THOMAS HARDY, secretary.

"Citizen Walker desires me to request of citizen Gerrald to favour him with a letter.

"P. S. Friend Margarot, I have not yet been able to do your business, which you left for me to execute before you left London. I have not been able to see that gentleman which you mentioned in your last, nor do I expect that I will these three weeks."

Addressed on the back:

"Citizen Margarot and Citizen Gerrald, Delegates."

"London, Nov. 22, 1793.

"Fellow-Citizens;—I duly received your



letters of the 12th and 28th instant, which I laid before the committee last night. After reading and deliberating upon them maturely, they resolved that you should continue at your post till you hear from me officially after the next meeting of the general committee of delegates; by that time we may form some idea what success we are likely to meet with from the advertisement and circular letter. We entertained high hopes of being liberally assisted by the friends of freedom. A circular letter was ordered to be drawn up, to be sent to the different societies in England with whom we correspond, inviting them to send delegates to the convention in Scotland, to promote a reform in parliament. A standing committee of five is appointed to answer the correspondence during your mission in Scotland. Your objection to forming a new constitution in your absence was not by them reckoned valid: it is very possible that it will not be accepted before your return; for it will be maturely investigated by all the divisions of the society before it is fully agreed to: besides, it cannot affect you in your present mission, for you well know that we are not very fond of *ex post facto* law. You will herewith receive a draught for 12l. 12s. 0d. on sir William Forbes and Co. The Englishman's Rights I will send you a few, with a few other tracts. We have not near enough for the orders we have from the country, and our own addresses are nearly out of print. I shall direct them to the person to whom I address your letters. There is no news in town of importance from the continent.—I am, for the society,

(Signed) "THOMAS HARDY, secretary,

"Mr. Frost is very ill."

Addressed on the back:

"Maurice Margarot, Joseph Gerrald, Delegates."

"London, Nov. 29th, 1793.

"Citizens;—I am desired by the general committee to make you acquainted with their determination relative to your stay in Scotland, which is, that you are both to remain at your post until the convention adjourns for the present season: then both to return to England with all possible expedition.

"The 12l. 12s. 0d. which I transmitted on the 22nd instant by the order of the committee to you, am afraid has miscarried, otherways doubt not you would have acknowledged the receipt; and not having received any letters since the date of the 20th instant, are also concerned for fear they should have been intercepted. We are highly pleased with the proposed union with our northern brethren, and beg you will use every exertion in your power to establish that desirable union upon a firm and permanent basis. It gives us great pleasure and encouragement to hear that the spirit of liberty is so flourishing in the north, and are happy to inform you that the same noble spirit is making a rapid pro-

gress in the south. We are sorry to hear of the indisposition of citizen Gerrald, and hope it is not of that violent nature as to preclude him from attending the duties of his mission.

—Yours in behalf of the society,

(Signed) "THOMAS HARDY, secretary.

"P. S. We have not had any account of the arrival of Mr. Muir, although we have been making every inquiry in our power."

Addressed on the back:

"Maurice Margarot, and Joseph Gerrald, Delegates."

Mr. John Gurnell.—I found this letter in Mr. Hardy's desk.

[It was read.]

"Edinburgh, Tuesday, Dec. 2, 1793.

"Citizen Hardy;—We received last night a letter signed by you, but written by another person, acquainting us with the determination of the committee, 'that at the adjournment of the convention, we should return immediately to London.' This determination we will undoubtedly conform unto, unless it be (as we hope and trust it will) contradicted in your next; for, if the committee abides by it, we who, by being on the spot and thoroughly acquainted with the state of the country, can judge with certainty thereon—do assure you that our immediate return to London will be attended with very bad consequences; for at present all the country societies look up to us to come among them, to enliven, to encourage them, to convince them by our presence that we exist, that we have been sent from England for the purposes of union and reform, and that the time is near at hand when such reform must take place. Nothing, dear friends, must force us from Scotland at present but the absolute impossibility of bearing the expenses attending our mission, and those expenses may be somewhat lessened by recalling one of us and leaving the other: our Norwich friends may likewise bear a part of them; so that, unless the funds of the society are very low indeed, no excuse for recall can be valid, unless founded on fear, and that we must remind you, is our concern and not yours. While, therefore, the idea of uniting our society with the whole kingdom of Scotland affords you a pleasing prospect, let us do every thing in our power to cement that union; and this can only be done by a longer residence in the country, and by visiting the several societies which have sent delegates to Edinburgh, and would think themselves ill-used if we did not take their town in our way. Consider of it then, we beseech you, and let us have your answer immediately.

"The convention proceed with great spirit; we sit daily: and last week we came to a resolution, which we fancy will give pleasure to every friend to reform: as the minutes are to be printed, we will, at present, only give you the heads of it, viz.

"That should any attempt be made by government for the suspension of the Habeas Corpus bill, the introduction of a convention bill, or the landing of foreign troops in Great Britain or Ireland, the delegates are immediately to assemble in convention at a certain place, the appointment of which is left with a secret committee. That, when seven delegates shall be thus assembled, they shall declare themselves permanent; and, when their number amounts to twenty-one, they shall proceed to business: thus you see we are providing against what may happen.

"Citizen Gerald's health is so far recovered as to not prevent him from fully attending his duty. We cannot say as much of citizen Sinclair,\* from the Society for Constitutional Information; he has been confined to his bed ever since Saturday by a violent fever and sore throat: he is, however, somewhat better this morning. He is a valuable young man; and should he die, his loss would be severely felt; not indeed by his constituents, who have basely abandoned him, but by all the friends of freedom. He is a member of our society, and we recommend him to your notice.

"You will before this have received our last, of the 26th November, acknowledging the receipt of your letter of the 23rd, together with a remittance of 12*l.* 12*s.* 0*d.* Our time is so constantly employed that we find it absolutely impossible as yet to write to you more than once a week, and even that on no fixed day; eighteen hours out of the four-and-twenty are devoted to public business, and you may rest assured they are not mispent. We are happy to hear that you go on as well in the south as we do in the north. Letters convey but very imperfectly, and with no great degree of safety, what we might wish to inform each other of. You have done us a material injury by neglecting to send us a parcel of our publications, and a number of copies of the Jurymen's Rights; pray do not delay them any longer, and among them some of the letters to Dundas. We sent you an Edinburgh Gazetteer last week: we will send you another to-morrow; you will therein see part of what has passed in the convention.—We remain, most sincerely, your fellow-labourers in the cause of reform,

"JOSEPH GERRALD, delegate.

"M. MARGAROT, delegate.

"M. M. would be glad to receive a line from T. H. about private business of his own."

Addressed—"Mr. Thomas Hardy."

To Mr. William Scott.—Were these papers found in the same manner as the other papers?—They were.

Mr. Bower.—These are the proceedings of the convention.

Mr. Erskine.—I confess I am not very anxious to shut out any evidence. I very probably

do not understand it; but I do not see how it bears upon the case. As the case stands at present, the evidence is this. This society was formed, the object of its formation has been read in evidence, subject to such construction as the gentlemen of the jury upon their oaths shall be disposed to put upon it, in connexion with all the rest of the evidence. They appoint two delegates to attend this Edinburgh Convention, and your lordships will have the goodness also to recollect, that the holding of that convention is not an act which is charged at all upon this record; but the conspiracy, as it is called, was to assemble another convention at a very distant period after this first convention had been dispersed.

We had it in evidence recently, we have all heard within these five minutes that those two gentlemen who were appointed as delegates to represent the Corresponding Society, of which the gentleman at the bar was secretary, had instructions given them, which instructions directed these delegates to pursue closely those rules and institutions of the society which have been read in evidence. Therefore, my lord, if they have—I do not know that they have, nor do I care whether they have or no—if it should turn out in the proceedings that are now proposed to be read, that this convention at Edinburgh did, in the moments of heat and irritation, which I take for granted always must belong to persons in the situation in which they were placed—if they had written, or said, or done any thing; nay, I will go farther, if Mr. Margarot has done any thing, or said any thing, not within the scope of the instructions given to him, which instructions have been read in evidence, and which instructions refer also to the institution of the society, which has been also read in evidence, I humbly contend that cannot affect the prisoner in any way: and give me leave for a moment to call this to the serious consideration of the Court.

The defendant is charged with no act of the Edinburgh Convention; no, he is charged with that of which if I could believe him one moment in my mind to be guilty, although I must stand here to do my duty towards him, yet I should do it in another fashion than I mean to perform it—he is charged with compassing and imagining the death of our sovereign lord the king, whose life is dear, my lord, to all the kingdom; in order to prove that he had from the beginning that wicked intention, for that wicked intention is the foundation of the whole proceeding, and no act can be given in evidence before your lordships, nor will I sit here silent to hear any act given in evidence that does not go to show the prisoner at the bar had that wicked compassing. I admit that, if they can show that any instructions were given to these two men, which instructions carry upon the face of them (and whether they carry it upon the face of them or no is subject to the consideration that they

\* See his case, *anté* Vol. 23, p. 777.



are to receive from the jury) evidence of that wicked intention, or that that intention can be proved by any thing that is like inference or construction (for this is not an extension of the statute at all) this is matter of evidence.

My friend Mr. Gibbs and myself have sat silent; your lordships, I am sure, must agree that we have given no sort of trouble to the Court, nor do I mean in the progress of the cause to give trouble to the Court; when, therefore, they read any thing that comes from Mr. Hardy, or any thing that does not come from him, though he is the mere instrument, as the secretary of a body of men, yet if he mixes in it, we have never objected to it as evidence; but when they propose to read, I do not know what it is—probably I am wasting my own breath and your lordship's time in opposing that which will be of no consequence, perhaps, when it comes to be read; but when I stand here defending this man, who holds his life under the law, and I am not defending his life only, but my own life, and the life of every man in the country, I must take care that the rules of evidence are observed—I wish to know the nature and the quality of the paper. If it be something Mr. Hardy is cognizant of, if they can show that the proceedings of the convention were known to and approved of by Mr. Hardy, my objection falls to the ground, and I have nothing to say about them.

Lord Chief Justice Eyre.—I take it for granted they mean to do that, because, otherwise, the proceedings of the convention at Edinburgh can be nothing in this cause.

Mr. Bower.—There are subsequent approbations of them without end; we shall read evidence enough of that by and by.

Lord Chief Justice Eyre.—There is enough, in my opinion, to let in the evidence; the application of it is quite another consideration: this is the act of a body, to which this prisoner sent persons to act in his name; he may afterwards be sure object that they exceeded their commission, and therefore they are personally responsible; but I think that will be observation upon the evidence, it is no objection to the evidence.

Mr. Erskine.—I am perfectly satisfied; I only wanted to know what we were about.

Mr. Solicitor General.—Mr. Skirving must be considered as agent to the society, and it is extremely important, as it seems to me—

Lord Chief Justice Eyre.—It is agreed to be read, subject to the observations that may arise upon it.

[The Minutes of the convention at Edinburgh were then read; but as they have been already printed at full length in the trial of the secretary, Skirving (*ante*, Vol. 23, pp. 391\*—442), it is thought needless

here to repeat them. It should, however, be noticed, that on this trial of Hardy, the blank which the reader will observe at the end of the Minutes (p. 442), was filled up with the "Declaration and Resolutions," which by the convention were ordered to stand last on their Minutes, but which, in fact, had never been incorporated into the original document. The "Declaration and Resolutions" will be found in the indictment against Alexander Scott *ante* Vol. 23, p. 385.]

Mr. John Gurnell.—I found these papers in the prisoner's house.

[They were read.]

"Edinburgh, Dec. 8, 1793.

"Fellow Citizens:—We desire that a copy of the inclosed papers be kept by the society, and that another copy of them be delivered without delay to citizen Martin, in order that he may proceed thereupon immediately.

"You will already have had confused accounts of what has taken place here for the last four days, but on Tuesday next the Edinburgh Gazetteer shall (if despotism permit) give you a complete detail of every thing; the society will thereby be able to discover, that our arrival in Scotland has been productive of great advantage to the cause, and at the same time has given great alarm to our enemies. We are very much surprised at the remissness of the society, while we are exposing our life and liberty, while we are devoting our time and our exertions to their service, while we are incurring numberless expenses, and affronting dangers which would stagger the most hardy of them; while we are doing all this, we are moreover obliged to remind them of it, and that supplies are now become more necessary than ever. Surely the pecuniary exertions of any individual in the society can never be compared to our endeavours; honoured with their confidence, we find ourselves happy in being placed in the front of the battle; but let them remember that our sacrificing ourselves will be of little use, unless they afford us a proper support, and that most immediately. Not daring any longer to trust to the post, we send you all these papers in a parcel; you will be so good as to make us acquainted with their safe arrival. Gerrald wishes to get to London as soon as possible: he will communicate that which cannot be so fully expressed by letter; you may consider this as a private letter, but you may read such parts of it, as you think proper, to any member of the society, especially where it may be productive of good. You will see by the inclosed papers, that power has proceeded in a most arbitrary manner: almost all the prominent characters in the

\* The reader is requested on referring as above to the Minutes, to make the following corrections:

P. 411. l. 24 from bottom, after paragraph insert by paragraph.

P. 416. l. 28, after know insert what.





will give you no reason to think your praise prematurely bestowed. Since Sinclair's departure nothing new has occurred, excepting the formation of a society some where about the Grampion Hills; they have already got the intelligence that the convention mean to enlighten the Highlands; and they testify their gratitude for our remembrance and our exertions, and have already made a subscription towards it.—Again interrupted, and likely to lose the post, unless I dispatch this immediately. Believe me fellow citizens, yours unto death.

"MAURICE MARGAROT."

"Pray, my worthy friend Hardy, did you some weeks back receive an enclosed letter to Preval? Did you likewise receive the papers and parcel sent you by the Charlotte, on Wednesday the 10th instant? Have you done any thing with that piece of paper? Have you written to Norwich; and have they answered you?—I have sent them news regularly, but have not received a single letter from them. Send them some fresh mode of directing to me, or else let them send their letters to you first.—Pray question Sinclair most particularly—vale & amor."

Addressed

"Mr. Thomas Hardy, No. 9, Piccadilly."

Mr. Thomas Maclean,—I found these two papers in the possession of Mr. Adams.

Alexander Grant said he believed them to be the prisoner's hand-writing.

[They were read.]

"London January 10, 1794.

"Citizen Adams;—The London Corresponding Society begs the society for Constitutional Information to accept of a few copies of M. Margarot's indictment.

"THOMAS HARDY, secretary.

"P. S. The London Corresponding Society is to have a general meeting, and anniversary dinner on Monday the 20th instant at the Globe tavern, Strand."

Addressed

"Citizen Adams, secretary to the Society for Constitutional Information."

"London, January 11th, 1794.

"Fellow Citizens;—I have just received a letter from citizen Margarot at Edinburgh, with some of the Edinburgh Gazetteers, where you will see that citizen Skirving is found guilty, and sentenced for fourteen years transportation to Botany Bay. Margarot's trial comes next, he meets it with great firmness and resolution. I have no time to make my comments on the proceedings, but I think our opponents are cutting their own throats as fast as they can. Now is the time for us to do something worthy of men, the brave defenders of liberty, south of the English channel, are performing wonders, driving their enemies before them like chaff before the whirlwind. Margarot tells me that he has not time to write to you just now, but he

hopes to have time very soon, when his trial is over, and immured in a prison. The London Corresponding Society is to have a general meeting, and an anniversary dinner on Monday the 20th instant at the Globe tavern, Strand. I have sent you some of Margarot's and Skirving's indictment, with two copies of a pamphlet on brewing; he is a member of our society, the author; if you approve of it, you may put it in practice, and be a great saving to many families, also a diminution of the revenue, for every one brewing their own beer pay no duty for it, excuse haste; I still remain, &c. (Signed) "THO. HARDY."

James Davidson sworn.—Examined by Mr. Garrow.

I believe you are a printer by business?—Yes.

Were you employed at any time to print a number of these papers?—Yes.

When were you employed?—I believe it was the 20th of February last.

By whom were you employed?—Thelwall brought me the manuscript.

Was any body with him when he came with it?—Yes, there was, but I do not recollect who.

Were there more persons than one?—No.

What orders did he give you respecting it?—He desired me to print off—

Mr. Erskine.—Is this evidence?

Mr. Garrow.—We submit that it is.

Mr. Erskine.—Then I object to it, what Mr. Thelwall said is no evidence against Mr. Hardy.

Mr. Garrow.—I submit to your lordships that it is the clearest evidence in the world after that which your lordships and the jury have already heard. We have proved, by a great variety of evidence, much of it under the hand and signature of the prisoner now at your lordship's bar, much by papers found in his custody at the time of his apprehension, a clear connexion and conspiracy upon the subject of this high treason between Mr. Thelwall and the prisoner. We therefore submit to your lordships with confidence, but with deference undoubtedly, that all the acts of Mr. Thelwall, or any other person against whom we have given evidence, fit to be submitted to the jury of their accession to the general plan of the conspiracy, is clearly evidence against every man charged with that conspiracy; this therefore is an act of Mr. Thelwall's; it is hardly worth discussing in this instance, only that it is as well to do it the first time that the objection arises; but we have other evidence, such as the defendant's paying for the printing; but having given evidence of Thelwall and Hardy being parties to the general conspiracy alleged as high treason, we have a right to give in evidence any acts of these conspirators relative to that object against any of them.

Mr. Erskine.—There is no manner of doubt that upon an indictment for a conspiracy, be



the conspiracy to do one act, or another act, or be the quality of the act done, when it is done, what it may, that as far as you can connect persons acting together towards one purpose, which purpose constitutes the crime, you may undoubtedly involve them together by evidence, but that is not the question here. I wish to be understood that I have no anxiety upon the subject, because it is a printed paper which has been in all our hands, and was yesterday stated at great length by Mr. Attorney General in the course of his opening; but it is only that the proceedings may not be embarrassed in the course of them that makes me interpose.

Mr. Thelwall gives a paper to this witness to be printed, if my friend Mr. Garrow can show that Mr. Hardy afterwards paid for the printing of this paper, then this will be so much time lost; but if that is not before your lordships, as it is not, there may be a difference in the quality of the act, by the proceeding farther to the printing a paper; for instance, suppose this paper itself contained something criminal, could your lordships fasten that crime upon the prisoner, by Mr. Thelwall's having directed this gentleman to print it? the knowing that a paper is printing, and giving an authority to print it is different; supposing that paper contained treason in itself, which I know it does not, that might be misprision of treason, but could not be treason itself, therefore I humbly apprehend that in a criminal case of this enormous size your lordships will not stretch the rules of evidence, so as to allow it to be asked of this witness, whether Mr. Thelwall did direct him (the prisoner, Mr. Hardy, not being present) to print that paper, the nature of which I do not know.

Lord Chief Justice *Eyre*.—That is what I was going to observe, the insisting on one side, and objecting on the other, is perfectly premature, for not knowing what the contents of the paper are, the Court cannot judge whether it is a branch of the evidence of the general conspiracy, or something personal with which the prisoner has nothing to do.

Mr. *Garrow*.—I take the liberty of stating to the Court, that the ground and foundation upon which I humbly submit to read this paper is, that it is an instrument to carry into effect the general high treason charged in this indictment. One stage or step of the conspiracy being a paper to excite the subjects of this country to desert their allegiance, and in defiance of that allegiance to set about to call a convention by force to assume the power of the legislature. It is as an instrument and a paper to carry that into effect that we desire to read it.

Mr. *Erskine*.—Is your lordship to take that from Mr. Garrow's assertion?

Lord Chief Justice *Eyre*.—It is necessary in order for the Court to judge whether it is of the tendency you describe, to open to us that part of the paper which you say has that

tendency. I have cast my eye over the paper, and I see that there is a passage in it which does go to the general object.

Mr. *Gibbs*.—I understand the point that Mr. Garrow contends is this, that though Mr. Hardy only is now upon trial, yet because one overt act laid in the indictment is, that papers were published, that for the purpose of proving that overt act, part of a paper delivered by Mr. Thelwall to be printed is to be given in evidence against Mr. Hardy.

Mr. *Garrow*.—I shall not by any ingenuity of my friend be drawn into the argument of an abstract question, I forbore to state the paper, lest it might be said I was giving the effect of it; I will now state the passage which I say demonstrates that it is of that quality. "You may ask, perhaps, by what means shall we seek redress? We answer, that men in a state of civilized society are bound to seek redress of the grievances from the laws as long as any redress can be obtained by the laws. But our common Master whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors. There is no redress for a nation circumstanced as we are, but in a fair, free, and full representation of the people."

Now we allege and humbly insist that we have given much evidence to show that the purpose of this conspiracy, which is charged to be high treason, was, by force to assume the power of legislation, in despite of the constituted authorities of the country, as they at present happily exist here, by substituting a convention of the people.

Mr. *Erskine*.—Our objection is merely with regard to this coming from Mr. Thelwall; your lordship will dispose of it as you please, I have no anxiety about it.

Lord Chief Justice *Eyre*.—This purports to be a paper containing a resolution at a general meeting of the London Corresponding Society, held at the Globe tavern; it is brought to the printer by one of the members of that society, the prisoner being another member of that society, acting in that society as the secretary; then they being both involved therefore in the proceedings of that society, and this being a printed paper produced by one of them, it does seem to me that in a general charge of a conspiracy this is evidence to prove a circumstance in that conspiracy: whether it will be ultimately so brought home to the prisoner, Hardy, as that he should be responsible for the guilt of having published it, may be another consideration, but that it is a branch of the conspiracy, and a circumstance occurring in it, the import of the paper plainly proves. It does seem to me, therefore, that it is admissible.

Mr. *Garrow*.—What directions did Mr. Thelwall give you when he brought you



the manuscript for the purpose of printing?—He told me to print off two thousand and then stop.

What were you to do with the two thousand when you had printed them?

Mr. Gibbs.—Does your lordship think that all the directions which Mr. Thelwall gave, are to be received in evidence?

Lord Chief Justice Eyre.—Whether it is two thousand, or what number, cannot be material, it is the publication of an act of this society.

Mr. Erskine.—Your lordship means that it will have an application to every member of the Corresponding Society.

Lord Chief Justice Eyre.—It applies to the society, as far as relates to the general transactions of that society, but as far as it may constitute individual guilt, which may be separated from the general guilt of the parties to the general plan, that is another consideration.

Mr. Garrow.—Did you print the number ordered?—Not that day.

How soon did you print them?—I printed two hundred of them that day, and carried them to the Globe tavern; when I went to the Globe tavern I met Mr. Hardy on the stairs.

Did you know him before?—Yes.

Were you a member of the society yourself?—Yes.

You had then probably been present at some of the meetings of the society.—I was not at that meeting.

Had you been present at any meetings of the society before you met Mr. Hardy upon the stairs at the Globe tavern?—Not some time.

Had you ever seen him there?—Yes.

In what character did he act at the meetings?—In the character of secretary.

What passed when you met him on the stairs?—I told him I had brought two hundred copies of the resolutions; he desired me to take them back again, and not distribute one of them; accordingly I went home with them, and returned again to the Globe tavern to dinner.

You said February, do you mean February or January?—I am not sure to the month.

Was it on the day at which the resolutions were come to?—The day of the meeting.

At what time of the day was it that you saw Mr. Thelwall when he brought you the copy?—It was, I believe, between one and two o'clock.

At what time was it that you carried the two hundred copies to the Globe tavern?—Between four and five.

You returned home with these two hundred by the direction of Mr. Hardy, and came back to the Globe tavern to dinner?—Yes.

At what time was that?—At pretty nigh six o'clock.

Were you present at the time these resolu-

tions were proposed in the society?—No, I was not.

Was it on the day upon which the resolutions purport by Mr. Thelwall's paper to be come to, that you went to the Globe tavern, or a month after?—I had the copy on the 18th, and delivered the two hundred on the 20th.

Look at the paper, and tell us whether it was January or February; is the date correct?—Yes.

Then do you believe it was the 18th of January, and not the 18th of February, upon which you had the copy?—Yes, I see now that it was January.

Have you any doubt of that?—None.

When you returned again, was it to a private dinner or a public dinner of the society?—A public dinner, every one paid for his ticket.

Was there any chairman at the dinner? did you see any person in the chair?—I am not very sure, I think Mr. Thelwall was in the chair, but I am not sure.

Was Mr. Hardy there?—Yes, he was.

When you returned to dinner, did you carry any copies of the paper you had printed with you?—No, I did not.

What did you do with these copies afterwards?—Somebody was sent for them to my house.

Where from?—From the Globe tavern.

From the meeting?—Yes.

Were they brought to the meeting?—They were.

What was done with them there?—I saw only one of them.

Where did you see that?—Somebody handed it round the table, I am sure I do not know who it was.

How many persons might there be assembled at that meeting?—I dare say there were about three hundred or thereabouts, as near as I could guess.

How late did you stay?—Till ten o'clock, or thereabouts.

Did you print any more of them at any time?—Yes.

When?—I cannot be particular to the time, I printed in the course of that week, I believe, a thousand more.

By whose order?—Mr. Thelwall's order was to print two thousand; I completed the two thousand according to his original order.

What did you do with them when you had printed them?—I carried a good many of them to Mr. Hardy's.

What did you do with the rest?—People came for some now and then.

What people?—Some of the members of the London Corresponding Society came for them.

And did you deliver them as they came for them?—Yes, some asked for a dozen, or half a dozen or so, and I delivered them.

Did you print any more than the two thousand which Mr. Thelwall originally ordered?

—To the best of my recollection I printed six thousand more.

By whose orders did you print them?—I believe Mr. Hardy gave me orders to go on with them till I should be desired to stop.

Were you ever desired to stop, and when?—I was desired to stop, I believe, in the month of March.

Did you go on printing them till the month of March?—I did now and then occasionally as they were wanted.

How many thousand might you print in all?—Eight thousand.

Who paid you for them?—They are not paid for yet.

On whose credit did you print them? did any body at any time promise to pay you for them?—No.

Had you any conversation with Mr. Hardy about being paid for them?—No, I had not, no farther than I put them down to the credit of the society.

Who desired you to do that?—He did not desire me; but he, as treasurer, was to receive the money, and see the debts of the society paid.

Who was?—Mr. Hardy.

Did you make the society debtor for them?

—Yes, I did.

Have you printed upon other occasions for the society?—I have.

Who paid you?—Mr. Hardy.

[It was read.]

#### “ AT A GENERAL MEETING

“ OF THE

“ LONDON CORRESPONDING SOCIETY,

“ Held at the GLOBE TAVERN, Strand,

“ On MONDAY the 20th Day of JANUARY,

“ 1794.

“ CITIZEN JOHN MARTIN, IN THE CHAIR.

“ The following ADDRESS to the PEOPLE of Great Britain and Ireland, was read and agreed to.

“ CITIZENS;—We find the nation involved in a war, by which, in the course of ONE Campaign, immense numbers of our countrymen have been slaughtered; a vast expense has been incurred, our Trade, Commerce and Manufactories, are almost destroyed, and many of our Manufacturers and Artists are ruined, and their families starving.

“ To add to our affliction, we have reason to expect, that other taxes will soon be added to the intolerable load of imposts and impositions with which we are already overwhelmed; for the purpose of defraying the expenses which have been incurred, in a fruitless crusade, to re-establish the odious despotism of France.

“ When we contemplate the principles of

this war, we confess ourselves to be unable to approve of it, as a measure, either of justice or discretion;—and if we are to form our calculation of the result, from what has already passed, we can only look forward to defeat and the eternal disgrace of the British name.

“ While we are thus engaged in an expensive and ruinous and foreign war; our state at home is not less deplorable.

“ We are every day told, by those persons who are interested in supporting the *Corruption List*, and an innumerable Host of *Sinecure Placemen*, that the Constitution of England, is the perfection of human wisdom; that our laws (we should rather say, *THEIR* laws) are the perfection of justice; and that *their* Administration of those laws is so impartial and so ready, as to afford an equal remedy, both to the rich and to the poor; by means of which, we are said to be placed in a state of absolute freedom, and that our Rights and Liberties are so well secured to us as to render all invasion of them impossible.

“ When we ask, how we enjoy these transcendent privileges; we are referred to *MAGNA CHARTA*, and the *BILL of RIGHTS*; and the glorious *REVOLUTION* in the year 1688, is held out to us, as the bulwark of British liberty.

“ *CITIZENS*;—We have referred to *Magna Charta*, to the *Bill of Rights*, and to the *Revolution*, and we certainly do find that our ancestors did establish wise and wholesome laws: but we as certainly find, that, of the venerable Constitution of our ancestors, hardly a vestige remains.

“ The only Chapters of the Great Charter, which are now in legal existence, are the 14th and 29th.

“ The important provision of the 14th Chapter, runs thus:

“ ‘ A Freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great fault after the greatness thereof, saving to him his contentment; and a Merchant likewise, saving to him his merchandize; and any other's villain than ours shall be likewise amerced, saving to him his wainage; And none of the said amerciements shall be assessed, but by the oath of honest and lawful men of the Vicinage.’

“ But by the usurped power of the judges, in assessing Fines (and what Fines!!) in the cases of Misdemeanor; this glorious Right of the Subject, of having these fines assessed by the Jury (the only possible protection from slavery and the vilest oppression), is unjustly and infamously ravished from us.

“ The provision of the 29th chapter, runs thus:

“ ‘ No Freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed, nor we will not pass upon him, nor condemn him, but by the lawful judgment of his peers, or by the law of the land. We will sell to no



man, we will not deny, or defer to any man, either justice or right.'

"The various methods now in constant practice by which the benefits of this provision are totally defeated and destroyed, might induce us to suppose, that the GREAT CHARTER has been repealed; if we did not assuredly know, that it is the fundamental basis of our constitution; which even the REAL representatives of the people (much less the miserable nominees of HELSTONE and OLD SARUM) have not the right, nor (as we trust it will be found by experience) the POWER to repeal. Yet what do we find in practice? Unconstitutional and illegal INFORMATIONS EX OFFICIO, that is, the arbitrary will of the king's Attorney General, usurping the office of the ACCUSING Jury; and the interested oath of a vile common informer, with the judgment of as vile a common trading or pensioned justice, substituted in the room of our birthright, an impartial trial by our country.

Add to this, that the exorbitant expense of judicial proceedings, the novel practice of arbitrarily and repeatedly annulling the verdicts of Juries, and the dilatory practice of the courts, most openly and shamefully contradict the clause which forbids the denial, the delay, and the sale of justice,

"A man accused of FELONY (for which by the common law of England, his life and goods are forfeited) may be bailed on finding two sureties for forty pounds each; but upon a charge of MISDEMEANOUR by words only, bail to the amount of ONE THOUSAND POUNDS has been demanded.

"Upon conviction also, for such misdemeanour, enormous fines, long and cruel imprisonments unknown to our ancient laws, and unsanctioned by any new statutes, have of late (and but of late) been too frequently and too oppressively inflicted. And all this, although by this bill of rights it is declared, that 'excessive bail shall not be demanded, nor cruel and unusual punishments inflicted.'

"If we look to IRELAND we find that acknowledged privilege of the people, to meet for the support and protection of their rights and liberties, is attempted, by terror, to be taken away by a late infamous act of parliament: Whilst titles of honour! No, but of dishonour, are lavished; and new sources of corruption opened, to gratify the greedy prostitution of those, who are the instruments of this oppression.

"In SCOTLAND, the Wicked Hand of Power has been impudently exerted, without even the wretched formality of an act of Parliament, Magistrates have forcibly intruded into the peaceful and lawful meetings of Freemen; and, by force (not only without law, but against law), have, under colour of magisterial office, interrupted their deliberations, and prevented their association.

"The wisdom and good conduct of the

BRITISH CONVENTION at Edinburgh, has been such, as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized, and made use of as evidence against them, and many virtuous and meritorious individuals, have been, as cruelly as unjustly for their virtuous actions disgraced and destroyed by infamous and illegal sentences of transportation. And these unjust and wicked judgments have been executed with a rancour and malignity, never before known in this land; our respectable and beloved Fellow-citizens have been cast FETTERED into Dungeons amongst felons in the Hulks, to which they were not sentenced.

"CITIZENS;—We all approve the sentiments, and are daily repeating the words, for which these our respectable and valuable brethren are thus unjustly and inhumanly suffering. We too, associate in order to obtain a fair, free, and full representation of the people in a house of real national representatives. Are we also willing to be treated as FELONS, for claiming this our inherent right, which we are determined never to forego but with our lives, and which none but thieves and traitors can wish to withhold from us? Consider, it is one and the same corrupt and corrupting influence which at this time domineers in Ireland, Scotland, and England. Can you believe that those who send virtuous Irishmen, and Scotchmen fettered with felons to Botany Bay, do not meditate and will not attempt to seize the first moment to send us after them? Or, if we had not just cause to apprehend the same inhuman treatment; if instead of the most imminent danger, we were in perfect safety from it; should we not disdain to enjoy any liberty or privilege whatever, in which our honest Irish and Scotch brethren did not equally and as fully participate with us? Their cause then and ours is the same. And it is both our duty and our interest to stand or fall together. The Irish parliament and the Scotch judges, actuated by the same English influence, have brought us directly to the point. There is no farther step beyond that which they have taken. We are at issue. We must now choose at once either liberty or slavery for ourselves and our posterity. Will you wait till BARRACKS are erected in every village, and till subsidized Hessians and Hanoverians are upon us?

"You may ask perhaps, by what means shall we seek redress?

"We answer, that men in a state of civilized society are bound to seek redress of the grievances from the laws; as long as any redress can be obtained by the laws. But our common Master whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles. We must have redress from our oppressors, and not from the laws of our plunderers, extortioners, and oppressors.



"THERE IS NO REDRESS FOR A NATION CIRCUMSTANCED AS WE ARE, BUT IN A FAIR, FREE, AND FULL REPRESENTATION OF THE PEOPLE.

"RESOLVED, that during the ensuing session of parliament, the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament and of the administration of the government of this country. And that upon the first introduction of any bill, or motion inimical to the liberties of the people, such as, for **LANDING FOREIGN TROOPS IN GREAT-BRITAIN or IRELAND**, for suspending the **HABEAS CORPUS ACT**, for proclaiming **MARTIAL LAW**, or for **PREVENTING THE PEOPLE FROM MEETING IN SOCIETIES** for **CONSTITUTIONAL INFORMATION**, or any **OTHER INNOVATION** of a similar nature, that, on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith to call a **GENERAL CONVENTION** of the **PEOPLE**, to be held at such place and in such a manner as shall be specified in the summons, for the purpose of taking such measures into their consideration.

"Resolved, that the preceding Address and Resolution be signed by the chairman, and printed and published.

"J. MARTIN, CHAIRMAN.

"T. HARDY, SECRETARY."

"Committee Room, January 23, 1794.

"RESOLVED UNANIMOUSLY;—That a hundred thousand copies of the address to the people of Great Britain and Ireland, voted at the general meeting, be printed and distributed by the society.

"Resolved Unanimously, That the following toasts, drank at the anniversary dinner of the society, be printed at the end of the address.

"I. THE RIGHTS OF MAN; and may Britons never want spirit to assert them.

"II. *The British Convention*, lately held at Edinburgh; and success to the important object it had in view.

"III. *Citizen William Skirving*, charged by the sentence of the court of judiciary, with the honour of being the cause of calling that convention.

"IV. *The London Corresponding Society*, and other patriotic Societies of Great Britain and Ireland.

"V. *Citizen Maurice Margarot*, the condemned delegate of this society; and may his manly and patriotic conduct be rewarded by the attachment of the people.

"*Citizen Gerrald* then arose, and in a stream of inspiring eloquence, pronounced the just eulogium of this truly valuable citizen, so emphatically called by *Citizen Aitchison* (one of the witnesses on his trial) the **SECOND**

**SIDNEY**.\* He concluded with wishing we might rather die the last of *British Freemen* than live the first of slaves.

"VI. *Citizen Joseph Gerrald*, the other Delegate of this Society, now under prosecution; and may his concluding sentiment be engraved upon every British heart.

"VII. The transactions at *Toulon*. May Britons remember them as they ought, and profit by dear bought experience.

"VIII. *Citizen Hamilton Rowan*, and the other true patriots of *Ireland*; and may the authors of the *Convention-bill* find that they have committed a *bull*.

"IX. *Citizens Muir, and Palmer*—May their sentence be speedily reversed, and *Botany-bay* be peopled with a colony of real criminals.

"X. Success to the arms of *Freedom* against whomsoever directed; and confusion to despots with whomsoever allied.

"XI. All that is good in every constitution; and may we never be superstitious enough to reverence in any that which is good for nothing.

"XII. *Citizen Thomas Paine*—May his virtue rise superior to calumny and suspicion, and his name still be dear to Britons.

"XIII. *Lord Loughborough*, the *Earl of Moira*, *Sir Gilbert Elliot*, and the other apostates from liberty: and may they enjoy the profits of their apostasy so long as they live.

"XIV. A speedy and honourable peace with the brave Republic of France.

"XV. The starving manufacturers and neglected peasantry of Great Britain and Ireland.

"XVI. *Citizen John Frost*; and a speedy restoration of that health which he lost in the dungeons of Newgate.

"XVII. The virtuous and spirited Citizens, now in confinement for matters of opinion: and may we show them by our conduct, that they are not forgotten."

Mr. Garrow to Davidson.—You said you were a member of the London Corresponding Society; do you know John Martin?—Not much. I have only spoke to him two or three times.

Where did you see him:—I saw him once in his own house.

Was he a member of the London Corresponding Society?—I am not sure of that—I cannot prove that.

Did you ever see him at any of the meetings of that society?—Yes; I have.

Was he there at the meeting that you have now been speaking of at the Globe tavern?—I saw him there.

That you have told us was a meeting of that society?—Yes.

Was Martin then a member of that Society?—I cannot say whether he was a member or not.

Did any body attend that were not members

\* See Vol. 23, p. 653.



at the meetings of the society?—I do not know.

Upon your oath did you ever know any persons attend the meetings of the society that were not members of the society?—There might be many that were not.

Upon your oath did you ever know any body attend them but the members? Was the business that you were with Mr. Martin upon, at his house, relative to the London Corresponding Society?—It was.

What was its nature?—Relative to the latter part of the toasts and sentiments printed at the back of that paper.

What passed between you and Mr. Martin respecting the latter part of the paper?—I told him that I thought there were some hard words in some of the resolutions and toasts. He said, No; it was all constitutional, and there was no danger could arise from it.

Was that between the 18th and 20th, or after the meeting?—It was the 21st, I believe, which happened on Tuesday.

The day after the meeting?—It was either the 21st or the 22nd.

I do not know whether you printed this?—

[Showing the witness a printed paper.]

No; I never saw it.

*One of the Jury.*—You have not told us yet whether you knew that there was any one individual who attended those meetings that was not a member?—There might be.

*Juryman.*—You have positively said to the contrary; endeavour to recollect if there were not.

Lord Chief Justice *Eyre.*—Do they never admit visitors?—Yes; they do.

Lord Chief Justice *Eyre.*—There are visitors spoken of?—There were tickets, I understand, to be given at the bar to any body that chose to call for them, or pay for them.

Mr. *Garrow.*—That applies to the dinner at the Globe?—Yes.

In the division meeting could any person who chose to ask for a ticket, without being introduced by a member as a visitor, obtain it?—No.

The Rev. *Richard Williams* sworn.—Examined by Mr. *Garrow.*

Do you know Mr. Thelwall?—Yes.

Are you acquainted with his manner of writing?—Yes.

Look at this, and tell me whether you believe this to be his hand-writing [showing a letter to the witness].—I believe the signature to be his.

Mr. *Garrow.*—My lords, I will state the grounds on which we offer this letter as evidence against the prisoner. We have already given evidence to prove that Mr. Thelwall was not only a member of the London Corresponding Society, but that in the publication of the resolutions passed at the anniversary meeting, and their toasts, he acted as the agent of the society. I now propose to read

a letter of Mr. Thelwall's, as a farther act of that agency. The letter purports to have contained several of these addresses; it purports, and it will appear likewise by the proof, to have contained several seditious songs, stated to have been composed and sung by Mr. Thelwall at that meeting, which we allege to be another, perhaps a subordinate and inferior branch of that conspiracy which was to bring all the constituent authorities in the country into contempt, so as to mature the public mind for that great change which we state to have been the ultimate object of the society. We submit to your lordships, that any act of Mr. Thelwall's, so in furtherance of this conspiracy, is evidence against the defendant. It also gives an account of the state of the other affiliated societies in different parts of the world. I cannot state it better than in the language of the letter:—"London is not the only place that is alive: Scotland is full of liberty boys." Sheffield and many other towns are mentioned as being in a state of expectation for that great catastrophe which they all looked to about this period.

Mr. *Ersine.*—Mr. Thelwall appears to have been an agent for the publication of this address, which turns out to be an act of the society, and to have ended in a dinner at which these toasts were drank. But the difficulty with me is this: if they could show that songs were actually sung at this meeting, which songs were indecent, or that they, in your lordship's mind, or the opinion of the jury, bear at all upon this case, I should not object in the smallest degree to these songs being read; but I very much doubt whether any account by Mr. Thelwall of these songs having been sung, can be evidence against Mr. Hardy. What an agent does is one thing, what an agent says has been done is quite another thing; nor will the construction which Mr. Thelwall may put upon these be at all evidence against Mr. Hardy.

Mr. Thelwall may, notwithstanding he acts for these societies, have some view of his own; not that I impute any such to him, because I am of counsel for him in the indictment that will be afterwards tried against him; but A, B, C, D, E, F,—all the letters of the alphabet may meet for objects which they may all league in and be connected together, and if criminal, all criminal. But a declaration of one man, supposing he drives at any particular object, and he makes use of any particular language to express his mind with regard to that object, cannot, I humbly submit, be evidence against the prisoner. As far forth most undoubtedly as all the acts of the society are given in evidence, as far forth as any thing has been said in the presence of Mr. Hardy at meetings he attended, all these are evidence against him, and so is every thing that Mr. Thelwall does in this party.

for Mr. *Garrow* has no doubt

be the universal

has proved

the principle

Mr. Gibbs.—We can have no anxiety to resist the evidence that is now offered, except that if it be received we know not where it may end. The question which your lordships and the jury are now to try, is, whether Mr. Hardy has compassed the king's death, and whether he has done any of the acts charged in the indictment as overt acts in the prosecution of that design. The evidence offered now to your lordships to prove this, is, that Mr. Thelwall, who is charged in the indictment to have partaken in the same conspiracies that are alleged against Mr. Hardy, that Mr. Thelwall, not by any communication with Mr. Hardy, not in consequence of any preconceived scheme between him and Mr. Hardy, did write this letter.

Now with respect to any thing that passed at the meeting at which Mr. Hardy was, with respect to any thing that was done by any other person directed and instructed by Mr. Hardy to do that thing, we admit that those things which passed at the society in Mr. Hardy's presence, and that any thing which was done by another person, by the direction of Mr. Hardy, could be evidence against Hardy; but to what point in the indictment the letter written by Mr. Thelwall, of which it is not proved that Mr. Hardy ever had any knowledge, is directed, I confess I cannot see.

The three questions are, first, Whether Mr. Hardy compassed the king's death; second, Whether he committed any of the acts which are stated as overt acts; and, third, Whether he committed them in the prosecution of a design upon the king's life. I take it, that a letter written by Thelwall, without the knowledge of Hardy, cannot be evidence of the act of Hardy's mind, namely, compassing the king's death; therefore, it cannot be evidence upon the first ground.

With respect to the existence of the acts that are laid as overt acts, they must be proved specifically upon all the prisoners in the indictment. The present trial is only of Mr. Hardy. The present question is, Whether he did any of these acts. Then the declaration of another man, whether by word of mouth or by letter, cannot prove the fact upon Mr. Hardy.

Then, suppose the acts proved, the third thing to be proved is, that the act was done in the prosecution of a design upon the king's life; then, nothing that is said, written, or done by a third person, without the authority of Mr. Hardy, can prove that Mr. Hardy meant to produce the effect which it is imputed to him he meant to produce; namely, the destruction of the king. Therefore I submit, that this letter written by Mr. Thelwall does not appear to conduce to the proof of either of the three things imputed by this indictment; namely, That he compassed the king's death; that he in point of fact committed any of the acts stated in the indictment as overt acts of that design; or supposing that he committed them, that any of these acts were directed to

the design of compassing the king's death. I submit, that upon neither of these grounds is this letter admissible against Mr. Hardy, and therefore ought not to be received in evidence. I wish to repeat, that it is not from any anxiety we feel with respect to this letter, but because we wish that a rule should not be established in a case upon perhaps indifferent points, as a precedent for others that may operate materially in the cause.

Lord Chief Baron Macdonald.—To whom is the letter addressed?

Mr. Garraw.—To a person of the name of Vellam.

It certainly is not in my power to judge of the anxiety of my learned friends about the consequences of producing this letter, except as that anxiety induces them to object to its being read. It appears, that they are apprehensive of the effect and tendency of this letter, because they have made all the observations that occurred to them on the effect and tendency of this letter; and I am sure they will do me the justice to believe, that I mean no offence to them when I say I cannot discern any thing that is not justly, to be described to be argument upon the effect and tendency of the letter, which is argument to be addressed to the jury. We conceive it is fit to be received in evidence, in order to convince the jury that this was done as a part of the agency of Thelwall. But if we are not able to make it out in that way, we insist that the publishing by a larger circle that which was ordered to be printed for general publication, is clear evidence, being in furtherance of the general conspiracy.

My friends seem to suppose that they can limit the acts of those who are not at present at the bar, for consideration to things done either by themselves or their express order. We are very much mistaken if that be the rule of law. We humbly apprehend, that without previous concert as to the particular fact done by A. A. not being then upon his trial, if B. should have done the act, having been proved before to be a party to the general conspiracy, to be carried into effect by divers means and various instruments, that it is fit to receive evidence of the acts of all the parties to that conspiracy, in furtherance of that general design; for instance, it is not required that, in order to give evidence, that a conspirator hired his horse at a particular place, the hiring of which would connect him with the general conspiracy, the ground having been made, it is not necessary to show that he, to the person then trying, had communicated that he meant to go there to hire a horse; but the fact of his having done it is an accession to the general purposes of the conspiracy. All the acts of these persons, limiting it to the objects of the conspiracy, not extending it to crimes of another dye or character, but in furtherance of the general design of the grand conspiracy, we insist, coming from whom they may, whether it be the party upon trial,



whether it be in consequence of the orders given by him, whether communicated before or after, are evidence receivable, subject undoubtedly to the observations to be made upon their greater or lesser effect.

Lord Chief Justice *Eyre*.—I confess I have great doubt myself whether this evidence ought to be admitted. I agree, that where several persons are proved to be engaged in one general conspiracy, that all the transactions of that conspiracy by the different parties, may and ought to be given in evidence; and it is enough if the party accused at this time can be proved to be privy to that general conspiracy; for if that is proved, every thing that is done by the different parties concerned in it, must be also imputed to him as a part of the transaction of that conspiracy. If I understand this letter, it is nothing more than Mr. Thelwall's account to a private friend, of a part which he had taken respecting this paper, and of his having composed songs. And I remember another passage in it, which is very material as against Thelwall, but, in my mind, should be reserved till it comes to the time when Thelwall's own declarations come to be proper evidence.

I doubt whether we ought to consider this private letter as any thing more than Mr. Thelwall's declaration; and Thelwall's declaration ought not to be evidence of any thing which, though remotely connected with this plot, yet still does not amount to any transaction done in the course of the plot, for the furtherance of the plot, but is a mere recital of his, a sort of confession of his of some part that he had taken. It appears to me, that that is not like the evidence which we before admitted of a fact done by Mr. Thelwall in carrying the papers and delivering them to the printer, which is a part of the transaction itself. His account of that transaction seems to me to stand quite upon a different footing. It seems just the same as an act which shall bind a man, because he is connected with the person that did the act; and his declaration, which shall not bind him, because it is no part of the act.

Mr. *Garrow*.—He says, "You will also receive enclosed several copies of Addresses published by the society." It is upon that ground I submit it to your lordship.

Lord Chief Justice *Eyre*.—To be sure, as far as the transmission of these papers go, it does stand upon another footing; but I should be sorry if the letter was to be read for so immaterial a purpose, as that is only to introduce something which in my mind ought not to be evidence in this case.

Mr. Justice *Buller*.—I am strongly inclined to think, that this letter is evidence, and ought to be received. There are two things to be considered in an indictment of this sort. First, Whether any conspiracy exists; next, What share the prisoner took in that conspiracy.

It appears to me, that when we are con-

dering the first question, any thing that passed from any person who is proved to be a party in the conspiracy ought to be received as evidence, and it is received for the purpose of showing what was the extent and nature of the conspiracy. Now if the case stood merely upon this ground, that Thelwall, one of the conspirators, had said their object was so and so, that, I take it, would be evidence; it has been admitted, I conceive, in a variety of cases that have happened upon similar questions with the present. In *Dammaree* and *Purchase's* cases evidence was received of what some of the parties had done when the prisoner was not there. The attorney general says, I call this witness, not to speak in particular to the prisoner, but to shew the intention of the mob.\* On the trial of lord Southampton something said by lord Essex, previous to the prisoner's being there, was admitted as evidence. In the cases that have happened in our own time, in lord George Gordon's case,† evidence of what different persons of the mob had said, though he was not there, was admitted. In all the cases at St. Margaret's-hill, the same thing was admitted, and with a view of showing what was the design then on foot, which is a very distinct question from the question of whether the prisoner was or not concerned to the extent that others might have been. As Mr. *Garrow* states this letter, it seems to me to have that effect, for it shews what some of the parties at least intended by meetings they had held, and what they proposed to effect. In that light, therefore, it seems to me to be evidence. But before it can affect the prisoner materially, it is necessary to make out another point, namely, that he consented to the extent that the others did; but still, while we are upon the question as to the design, it appears to me that any thing that has been said, still more any thing that has been written by the conspirators, ought to be received in evidence, to prove what that design was.

Mr. Justice *Grose*.—I must confess, I have very great doubts upon this subject. The majority of the court is for rejecting the evidence. It does seem to me, I must confess, at least very doubtful whether it ought to be rejected; for it appears to me, that this is evidence of what the parties meant by what was done at a place where both these parties were present, and both members of one society, and professedly concerned in one plan; it is therefore very material to hear what either of them says respecting this plan, for there is no doubt about it that these papers are respecting this plan, to show the extent of the plan, and the intention, the animus with which these people met, and were publishing these papers; therefore, in that light, I must confess, what my brother Buller

\* See the Trial of Daniel Dammaree, Vol. 15, p. 553.

† See his trial Vol. 21, p. 485.



has said has struck me very much. But, exclusive of that, from the beginning the inclination of my opinion was and is, that it is evidence.

Lord Chief Baron Macdonald.—It is certainly a case that has a great deal of doubt attending it; but at the same time I can hardly bring my own mind to consider this as falling within Mr. Garrow's own definition. It must be something in furtherance of the conspiracy. I agree, that any act done by one, is, to a certain extent, imputable to another; that is, it may be given in evidence to show the general conspiracy in which he was engaged; but an act done, appears to me to be different from the mere relation of it by another person, a mere relation of what passed given by one in a private letter to another. I have much doubt whether it is evidence that ought to be received. I am, myself, inclined to reject it.

Mr. Baron Hotham.—I am of the same opinion as my lord chief justice and my lord chief baron. I do not think this is evidence to be received. I do not think it is a part of the transaction of the plan to be carried into execution. I consider it as a mere relation of what has passed, which, if it is to affect the prisoner, ought to be confined to the real fact that happened at the time to which this relation alludes. However, there is no evidence to prove that what is stated for a fact in this letter, by which the prisoner is to be implicated, actually did happen.

Lord Chief Justice Eyre.—After having heard my lord chief baron and my brothers upon it, I really am of opinion that it is too questionable to be received as evidence, except upon the ground last stated by Mr. Garrow, upon which (if he insists on it) it must be received.

Mr. Garrow.—Certainly not.

Lord Chief Justice Eyre.—In the cases of Damarree and lord George Gordon, the cry of the mob at the time made a part of the fact, of the transaction, therefore I have no doubt that such evidence ought to be received; but I confess I have so great a doubt upon the admissibility of this letter, that I prefer rejecting it.

Mr. Solicitor General.—My lord, I should have no idea of pressing this, but merely with a view to similar questions which may arise.

Mr. Erskine.—They will be discussed when they arise.

Lord Chief Justice Eyre.—Correspondence very often makes a part of the transaction, and where correspondence makes a part of the transaction, the correspondence of one man who is a party in a conspiracy, would undoubtedly be evidence, correspondence in furtherance of the plot: a correspondence of a private nature, a mere relation of what had been done, appears a different thing.

Mr. Garrow.—My lord, I now propose to read a letter upon the principle of its being a

correspondence between one of the persons proved to have been a party in the conspiracy, and another person at a distant part of the kingdom, likewise proved to be a party in the conspiracy: it is a letter from Mr. Martin, after the dinner at the Globe tavern, to Mr. Margarot, who was at that time in custody in the Tolbooth, at Edinburgh, having been one of the persons apprehended by the magistracy at Edinburgh, as a part of that British Convention whom the magistracy dispersed. The letter is in terms calculated to excite the spirit of the brethren of the North: it likewise contains a declaration of the universal approbation of the conduct of those delegates in the North, and it states other circumstances of a public nature;—the manner in which his majesty had met his parliament, as it is stated—the manner in which his majesty is stated by this writer to have been received by the people, and insulted, and his life endangered, as this writer states it, still going on with a view to excite and encourage them in a distant part of the kingdom, by disseminating the same doctrines, which, in London, these people disseminated.

Mr. Erskine.—I apprehend that this letter, upon no principle, can be evidence; I shall not draw the Court at all into the construction of the statute of king Edward the third, at this moment; the prisoner is upon his deliverance on the general issue, and I shall address your lordships and the jury upon that subject in due season: at present, I shall content myself with saying what has been said twice to-day already; first in the morning by myself, afterwards by my friend who sits by me, that this is an indictment for compassing and imagining the death of the king; and that there are overt-acts stated in the indictment, which are laid as acts done in pursuance of, and in accomplishment of—or to use the language of the indictment, to fulfil the traitorous intention, which is the charge upon the record.

It is impossible for my friends to go farther than to contend, by these acts, that they involve in themselves, as they are pleased to say, a forcible subversion of the government of the country, which would involve in it as a consequence, the death of the king, and that therefore it is an overt-act, or, in other words, relevant evidence to prove the criminal intention, which is the subject matter of this indictment. But your lordships permit, and ought to permit, I allow, any other acts of the prisoner, to be given in evidence, which decypher his mind to the jury; any expressions of his own, any thing that he has said, any thing that he has done, which points directly and relevantly to the purpose of this indictment; for I hope your lordships will never cease to recollect, that the crime charged upon the record, is the compassing the death of the king, and that the overt-act is the means the defendant is charged to have made use of in the accomplishment of that criminal and detestable purpose.



Then let us see the danger of allowing the letter of a man, who is not charged even upon this record, as a conspirator with the prisoner at the bar: Mr. Martin has had a bill found against him, which of course we know nothing of—we only read of it in the newspapers; but we, who are of counsel for the prisoner, are counsel for him as having engaged in a conspiracy with the other prisoners now in Newgate, and with other persons to the jurors unknown, for the purpose of accomplishing this detestable purpose of destroying the king; and your lordships will see what a pretty piece of work you are cutting out for yourselves, if this evidence be admitted. Any thing that Mr. Martin says, or writes, can, upon no principle of common sense (to leave law out of the question), be considered as evidence to criminate any body, except as he is a member of the Corresponding Society, which, by-the-by, he is not yet proved to be——

Mr. Garrow.—Davison proved that he was a member.

Mr. Erskine.—We will take Mr. Martin, for argument sake, to be a member of the Corresponding Society. I shall be glad to know upon what principle can your lordships go out of the overt-acts charged in the indictment; upon what principle upon earth can you go beyond evidence of the direct conspiracy charged upon the defendant, but upon this wholesome ground, which we do not stand here to contradict, namely, that any thing which can decypher the mind of the prisoner to the jury, from whence they can collect that he intended the death of the king, may be evidence against him; then, according to that, any members of the Corresponding Society whom you could have brought together when Mr. Hardy was not speaking of the king, when he was not reviling the king, or attempting any thing that could lead to his majesty's death, unless, according to the argument which we heard at large, yesterday, of certain consequences which were to arise from the representation of the people in parliament—it would render that innocent man at the bar, as I have a right to style him until the jury have pronounced a contrary verdict—it would make him answerable for every wicked thing that any man has said, or that any man has written.

I collect from what fell from Mr. Garrow, but still more from the opening of this letter, yesterday, by the attorney-general, that Mr. Martin writes, in some flippant manner, of a patten being thrown at his majesty, upon his return from his parliament (which, by-the-by, is the style and language of the law, for it is his parliament); that, if Mr. Martin chooses to express himself in a contemptuous manner either of the king or of his parliament, and if that is to be evidence to decypher the mind of any body, it is evidence to decypher the mind of Mr. Martin, not of Mr. Hardy. Do not common sense, common honour, and common justice, revolt alike at it? We have got names

we cannot help, because in a court of justice we sometimes talk of a *plot* and sometimes of a *conspiracy*; but I say, that all that has been laid before your lordships to-day and yesterday, amounts no matter to what, I am not to pronounce the law, it is the Court—but amounts to an assembly of a great number of people in different parts of this island, all pursuing one purpose. Your lordships will recollect, that the conspiracy, if it is to be called a conspiracy, does not exist in the members of the Corresponding Society alone, for the accomplishment of this purpose; they corresponded with Sheffield—they corresponded with Manchester, with Leeds, with Norwich, with Dumfermline, with Edinburgh, and with a great number of other places. According to the doctrine now contended for, the declaration of every man, not the declaration of what his object was—it has not been stated that any of them said, "the object of all our meetings is to destroy the king;" but if any absurd, intemperate man, drunk or sober, chooses to utter an expression contemptuous of the king, that is to be evidence to decypher Mr. Hardy's mind. I do not stand up to approve of any man's uttering any contemptuous expression of the sort; but if Mr. Martin has uttered such an expression, when Mr. Martin is upon his trial, the good sense of the jury will consider how far such an expression as that will weigh as against him; but I enter my solemn protest against this being given as evidence to affect Mr. Hardy. My lords, I must needs do so, when I heard an expression imputed yesterday in the opening, by the attorney-general, in this cause, to another person.—Suppose, for instance, any man of all that society, should say an intemperate, an absurd, or a criminal thing: why now, for instance, suppose a man takes the head off a pot of porter, and says, I should like to cut off the heads of kings, should I not know what the context was? must I not know what kings they were speaking of, whether speaking of those kings which he might think allied together for a purpose destructive to the principles of justice and humanity, or whether he meant any thing that could lead even to an idea of the king of Great-Britain?

But supposing any men connected in a scheme for the reform of parliament; I will suppose it in the case of honourable men, who meet in a society (of which I am a member) for the purpose of a reform of parliament, for any thing I know, if the papers of that society were laid before your lordships, there might be found expressions in them which your lordships might think intemperate, expressions which you might think illegal—expressions which you might think ought not to be used; and as far as your lordships could impute any of these expressions to me, if they could be fairly imputed, that would be one thing;—but, good God! what man could ever enter himself into any society for any one object whatever, if the language and if the writings



of every individual composing that society could be given in evidence against him.

I would only ask where this is to stop; because I have a right to say, if Mr. Martin is to be considered to be the decypherer of the mind of Mr. Hardy, then I must enter into a defence of the mind of Mr. Martin. I must call witnesses to Mr. Martin's character; for, if there is any objection to that, I have taken the pains in preparing for this momentous trial, to look from the earliest period of our history down to the present hour, through all the questions that have been put to witnesses with regard to the declaration of their sentiments of persons accused, for the purpose of their exculpation. Can you go the length of making a declaration of Mr. Martin's contemptuous behaviour towards the king evidence not only to show that he thought lightly of the king, but that every other man did, who met for another purpose, and for another end?

Is it meant to be gravely said here, that if persons meet together for the accomplishment of a purpose, which purpose appears by the evidence to be what I have no right to say, because until your lordships and the jury decide, whether it is to obtain a fair representation of the people in parliament by constitutional means, or whether it is any thing else, what quality the law shall annex to it, is matter I will not break in upon, for various reasons, at this moment. As the prisoner stands accused of compassing the death of the king, every thing he has done himself, every thing done in his presence, every thing said in his presence, to which he may be supposed to assent, by continuing to meet the same persons again, is to be received in evidence. Now, for instance, if Mr. Martin had said this in the presence of Mr. Hardy, and afterwards he is found living with Mr. Hardy, it might be said so far Hardy might be considered as approving the conduct of Mr. Martin. I understand this to be a letter found; I do not know where, for that is not even stated.—

Mr. Garraw.—It is a letter addressed to Margarot, at Edinburgh, he being a missionary from this society.

Lord Chief Justice Eyre.—Where was it found? what is the fact?

Mr. White.—It was not found among his papers, but we shall prove it to be Martin's hand-writing.

Mr. Erskine.—Suppose, instead of being a letter to Margarot, it had been a letter to Hardy himself, it would not be evidence; I cannot help a man's writing a letter to me—the post may bring it, and it may be found in my custody; if any man were to write a letter to me by the post, containing matters I highly disapproved, your lordships could not criminate me because this letter was found in my custody.

I wish this to be considered, in order for your lordships to see the extent to which this business is opened. We are now far advanced to the second day, upon an indictment for

compassing the death of the king; and, if your lordships look through the State Trials, from the beginning of our history to the present time, you will find what has been remarked by the Court, that it has never been necessary to have recourse to the expedients employed last night, by the indulgence of the Court, in a case of high treason. In the case of Elizabeth Canning, I understand it was done. But, if this field of evidence is to be gone into, I protest I cannot see when this will end, because I am sure that your lordships will do impartial justice, and, therefore, if this letter of Mr. Martin's is to be read, Mr. Martin, of course, must be allowed to explain it. If the crown can give the letter in evidence, because Mr. Martin happened to be a member of the London Corresponding Society, every man's letters, who was a member of any of these societies, which were in correspondence together (for your lordship will recollect, that the conspirators, if there are any, are all who have been moving to this purpose by affiliated societies), their bureaux might be broken open, their letters intercepted at the post-office, or be seized upon by the magistracy, and your lordship might have to read the correspondence of every man in these societies; I wish to know that, because it may be material, and I may withdraw my objection. Shall I, in my turn, be allowed to produce the letters of all the members of these societies to their friends? Certainly not; it would be absurd and foolish to expect it: therefore, upon every principle of law, I object to this letter of Mr. Martin's being read, unless it can be shown that his letter is connected with something that Mr. Hardy and he have done together, and that it can be brought home to Mr. Hardy, that he knew the facts contained in that letter, and that it was something done in the furtherance and accomplishment of a conspiracy between them, I certainly must object to any improper expressions in this letter being imputed to Mr. Hardy—I object to its being given in evidence.

Mr. Gibbs.—After this point has been so ably argued by Mr. Erskine, I can add but very little; but this I must say, that it seems to be offering this letter with an endeavour to bring before your lordships precisely the same question again. If I took what your lordship said accurately, when the decision was given upon the last point, and that evidence was rejected, your lordship said, that in Damaree's case, and in lord George Gordon's case, it was true, that the declarations of persons when the prisoners were not present were received in evidence; but they were received for this reason, because they had been present at the collection of the mob, and, during the riots of those mobs, in the transactions of which it was endeavoured to implicate the prisoners:—what they declared while they were in action, was admissible evidence, to show what the object of these



insurrections was, and therefore it was received: but your lordships have never determined, that that which was declared by a person unconnected with the prisoner at the bar, except as he may, at particular occasions, have been brought into his company, could in any case be received as evidence.

I understand the line to be this: when a man is indicted for that which is done by a great collection of men assembled together, and he is present at some times and absent at others, the declarations of other men acting with him in that very act for which he is indicted, are admissible evidence to show what the object of that assembly was: But why was the letter last offered, rejected? For this reason, because it contained a relation of facts, of which relation of facts the prisoner was not cognizant: he did not know that these facts were so related: What is the present letter? I asked to see it before I addressed your lordships: I was told I must not see it, that it was irregular; from what I have collected of it, it is no more than the last letter: it contains a relation of facts, and then they would add to it, that the object of this relation of facts, was to keep up the spirits of a person at Edinburgh; if I understood the argument, that was the drift of it.

Mr. Garrow.—It was stated to be an excitation in terms.

Mr. Gibbs.—Certainly; I am arguing under great difficulties; my object was, to show that this is the same question which your lordships have decided upon the former argument; I desired to see the letter before I addressed my argument to your lordships, which may certainly be all mere air, if I am mistaken in the fact; I was told in point of regularity, I could not see the letter, and therefore I can only argue it upon the recollection of what was loosely stated: it might be so intended, in the mind of the writer of it, to keep up the spirits of Mr. Margarot: But was that object communicated to the prisoner? Did he mean that those facts should be so related? The real object for producing this letter, is this—that the representation of facts contained in that letter, by the writer of it (and in the writing of which letter the prisoner is not in any respect implicated), that the narration of facts by the writer of the letter, should be fixed upon the prisoner; that whatever the writer of that letter has improvidently, foolishly, rashly, or I will say unlawfully expressed in that letter that rashness, folly, or illegality, may be fixed upon Mr. Hardy. It seems to me, that this case comes directly within the spirit of your lordships decision upon the last argument.

Cases were stated upon the last argument, in which the declarations of third persons were received against a prisoner; but it was only in cases where the prisoner was indicted for joining in the act of a multitude, where persons are sometimes present and sometimes absent; a part of that multitude, at the time

they were unlawfully collected, for which unlawful collection the prisoner was among others indicted; part of them had declared what was their object. I agree that may be evidence against a prisoner, and he must exculpate himself if he can; but that a letter should be evidence against Mr. Hardy, which he never saw, and for a purpose to which he never acceded, seems to me against all law, and I am sure that it is against all justice; for the object of this indictment is to try the mind of Mr. Hardy—to try whether he did in his mind compass the death of the king. And surely, justice does not require that that which is proved to pass in the mind of one man should fix a similarity of sentiment in the mind of another, who neither directed the letter to be written which is offered in evidence, nor ever afterwards knew that the letter was written, which letter too never was received.

Mr. Solicitor General.—I will trouble your lordship with a very few words upon this point, and, I trust, your lordship will be of opinion that it is unquestionably evidence. Certain persons are indicted for endeavouring to procure a Convention to be assembled to subvert the legislature, rule and government, now duly and happily established in this kingdom, and other overt-acts of the same tendency. Now upon the very principle which has been just stated by Mr. Gibbs, it appears to me that this is evidence. The principle which is stated by Mr. Gibbs is, that that which is declared by conspirators, whilst in action, is evidence against those who were not present at the time, as well as against those who were present at the time—

Mr. Gibbs.—I beg your pardon, I would not have you take my argument improperly; I did not say conspirators in action, but I said that where a number of men are indicted for acts of violence in which they unite, and the prisoner is sometimes present and sometimes absent, that what is stated by some of those persons who are said to co-operate with him in some of those acts of violence may be evidence.

Mr. Solicitor General.—I am very little capable of distinguishing between what I stated and what Mr. Gibbs now says. I take this to be a declaration of conspirators in the progress of their conspiracy, and I take that to be exactly the distinction between this case, and that which your lordships have determined, with respect to which it is my duty to submit to the judgment of the Court. That was a letter addressed to a person, whom we have not shown to be, in any degree, involved in the conspiracy, to a Mr. Vellam; whereas this is a letter, addressed by Mr. Martin, who is proved to be chairman of the meeting on the 20th of January, to Maurice Margarot, who was the deputy from the Corresponding Society, at the Convention which was held at Edinburgh; it is, therefore, a conversation, by letter, between two persons



who were parties to the conspiracy, if there existed any conspiracy; for, in all these cases, the first question your lordships and the jury will have to consider, is the existence of a conspiracy, and the object of that conspiracy; and then, whether the person charged was party to that conspiracy.

Now for the purpose of showing the existence of a conspiracy, and for the purpose of showing what the views of the conspirators were, how far they went, conversations of those conspirators totally distinct from the prisoner, have constantly been admitted to be given in evidence. In the case of my lord Stafford, which was a prosecution, by impeachment in parliament, for high treason, in compassing the death of the king, and proceeding to great length; the evidence that was first given was simply, and only of the general plot,\* by persons who were capable, as they afterwards proved by their testimony, of bringing that treason specifically home to lord Stafford; they were not examined to that point at first, but were examined simply, and only to the general plot; one thing which they proved in the course of that evidence, with respect to the general plot, I will state to your lordships; it was a discourse between Anderton, Campion, Green, and several other persons, with which lord Stafford had no sort of connexion whatever, in which those persons told the witness, that there would be a great alteration in England ere long; that the king was an heretic, and might be destroyed; that they industriously preached this doctrine, and that the duke of York was with them. Evidence was given of these conversations. Who were the persons that held these conversations? They were not persons included in the impeachment of lord Stafford, but persons to whom it was imputed that they were in the common and general conspiracy, which was charged to exist, for the purpose of the restoration of the Roman Catholic religion in this country, and for the purpose of deposing the king, and subverting the government of the country. The manner in which serjeant Maynard states the evidence which was to be given, seems to me to be perfectly clear. He says, "This is a treason of a faction, and of a general party in the nation: it is not this or that lord, but a great number; it is not this or that lord that is mentioned in the articles, but the conspiracy is of a great faction. This do we think, and this makes us so earnest to press the general before your lordships, that we may give satisfaction to your lordships, and the world, what this plot hath been, and how carried on every where.

"My lords, the consequence of that is very great; for, my lords, if there were a general design, and a general plot, as clearly there

was, some were to act in Spain, and some in France; some in other places; some in Ireland, Scotland, and England, and a great number of jesuits (we have a matter of thirty in chase about this business)—I say, my lords, if it be so, if one action be in one place, and another in another, yet if there be a common consent to accomplish this plot, then what the one does is the act of all, and the act of all is the act of every one.

"My lords, the persons were many, and the places and times many they acted in, and the designs which they were to accomplish and the means wherewith they were to accomplish them were many too."

My lords, in the case of lord Lovat, the same sort of doctrine is laid down with respect to the evidence.—The solicitor-general of that time says, "It is necessary, therefore, by general evidence, to show that there have been such plots and conspiracies as the Commons assert, and then to affect the noble lord at the bar, by proper evidence, with being concerned in these plots." It was so, he says, in lord Stafford's case, and at the "trials at law of the persons accused of having been in the same plot. The same method was allowed as proper, and liable to no just objection, in many trials after the revolution."†

This was said upon an objection that was taken to the evidence of Mr. Murray, of Broughton.—Mr. Murray proceeded in his relation of the conspiracy; and one part of the evidence which he then gave was, that lord Traquair had informed him, that a Mr. Drummond had carried over to Paris a memorial, and a list of all the gentlemen in Scotland, who would support the Pretender; that he had conversed with Drummond; that Drummond was then in Edinburgh, and proposed that he should have a meeting with him; that he had a meeting with Drummond, who repeated much the same thing, and said he had been extremely well received by the cardinal; that is cardinal Fleury.—Several other parts of his evidence were to the same tendency.—What was this but giving evidence of conversations between two conspirators upon the subject of the plot, for the purpose of showing what was the nature, tendency, and objects of the plot, and what were the views of the several persons who were concerned in it?

With submission to your lordships, this letter is evidence upon the same ground.—It is evidence, *quo animo*, Mr. Martin acted.—I do not mean to say, it is direct evidence, *quo animo*, Mr. Hardy acted, but it is the nature of all plots that this sort of evidence should be given; several persons are concerned; they are brought into one engage-

\* See Mr. Serjeant Maynard's opening speech on the trial of lord Stafford, *ante*, Vol. 7, p. 1399.

† See the case of lord Lovat in this Collection, Vol. 18, pp. 652, 653.

\* See the case of lord Stafford in this Collection, Vol. 7, pp. 1310, *et seq.*



ment; some of them may certainly have views less culpable than others, but still, for the purpose of a jury determining what is the guilt of the particular person charged, the views, the intentions, declared by conversation, as well as otherwise, of the several persons concerned in the plot, and especially when it happens to be conversations between two of the persons concerned in the plot, which, with submission, a letter from one of the persons engaged in it, to another of those persons is, then I submit, that it is a matter which may fairly and properly be given in evidence, consistent with the determination your lordships have made, and upon the very foundation, that it is what passes between persons engaged in a conspiracy, while the conspiracy is in its process towards that conclusion, which we submit the conspirators had in view.

Mr. Serjeant *Adair*.—It is not on account of the importance of this particular piece of evidence that I take the liberty of addressing a very few words to your lordships, upon the subject of the objection that has been made, but from an impression of the very great importance of the principle upon which this objection may be decided, and the extensive application of it to other cases that may in future occur.

In order to understand the objection, it is necessary to state the ground upon which this evidence is offered: and I conceive that a great part of the argument of my learned friend, who very ingeniously stated this objection at first, is answered by a consideration of the ground upon which this evidence is offered; for I do not conceive, and I, for one, do not offer the evidence to the Court upon the ground, that the idle expressions of Mr. Martin respecting the king,—that the relation of an accidental fact that happened in the Park, within Mr. Martin's knowledge, respecting the king, is any evidence at all against the prisoner; but it is upon this ground, that a part of that letter which we offer in evidence is alleged to relate, and your lordships, when it is read, will find that it does relate to an act done by the conspirators, as it is contended, in the furtherance and prosecution of that conspiracy which is by the indictment imputed to the prisoner.

Lord Chief Justice *Eyre*.—Be so good as state a little more particularly what that is.

Mr. Serjeant *Adair*.—It is a statement from one of the conspirators, who had been in the chair at the meeting of those whom we call the conspirators, held, as it has been alleged, for the purpose of furthering the views of that conspiracy—it is a statement of that conspirator to another person, alleged to be a conspirator, of what passed at that meeting, so held.—Now the charge against the prisoner is the compassing the king's death, by means of a conspiracy, to overturn the constituted authorities of the state, and the government of the country, under colour of a professed de-

sign only to make a reform in parliamentary representation, and to correct abuses in one branch of the legislature;—a design which, pursued by innocent and proper means, might possibly be either wholly innocent, or amount to a guilt infinitely less than that which is charged by this indictment; but when such a conspiracy as is imputed to the prisoner, is alleged to be carried on under colour of such a pretext, many of the acts of those conspirators must, in their nature, be equivocal, and admit of different constructions.—How are these constructions to be collected,—how is that ambiguity to be removed,—but by views of the conduct and declarations of the persons alleged to be in the conspiracy itself?—It is upon that ground, and that alone, that this is submitted to the Court as the statement of the proceedings at a meeting, by one conspirator to another conspirator, implicated in the general design, but not present at that meeting.—It seems to me, that there is no kind of evidence that can tend more directly to develop the real intention of the parties in the transaction, than that species of evidence which is now offered.—I do not mean to contend, that the letter, when read, which I have cast my eye over, will itself go any great length in effectuating that purpose, but the nature of the evidence is such as may be important, perhaps, in other instances, much more so than the present; and the principle is extensive in its application, not only to the trials upon the present occasion, but those that may hereafter occur in this country, and at times when this trial may become a precedent to posterity.

The grounds upon which this evidence is offered to the Court, seem to me to fall directly within the principle of lord Stafford's case; but, even if it could be distinguished from other cases, I think it cannot be distinguished from the cases of *Dammaree* and lord George Gordon: and the distinction that has been attempted between an act of violence, or any other act, in furtherance of a conspiracy, I confess I do not feel much the force of.—This comes so completely within the principle of lord George Gordon's case, that it is impossible, without holding that case not to be law, to reject this evidence.

Your lordships will pardon me for having made these observations; it was merely from the importance of the principle, and not from the least idea that the letter, when read, will be thought to be very much in itself.

Mr. *Beaumont*.—I make no apology for troubling your lordships with a few observations upon this point; it is a case of very great importance; and when I say that, I am sure I shall be understood, that I do not stand up to speak of the importance of it, because I am likely to give any extraordinary assistance, but, inasmuch as it is of so great and general importance, I, therefore, feel it my duty to attempt to do it in the best way I can.—I shall, in doing it, avoid two things:

I will not attempt to break into, or controvert, the rule that has been already laid down by the Court, as I understand it—I will not repeat a syllable that has been said by the learned gentleman before me—but I think I can add another observation upon this letter, which would entitle it to be read.

When I say I will not controvert the rule laid down, as I understand it, I wish to state, in order that I may be corrected if I misunderstand it, how I suppose it to have been laid down,—as I understand it, it was decided, by the authority of the Court, that a mere narration of simple facts that have passed is not admissible evidence.—I think that cannot well be disputed; my humble judgment certainly goes with that decision, if it is carried no farther;—but when a question of evidence, and of great extent and importance, is before the Court, I have been always taught, that the way to decide upon the competency and admissibility of that evidence is to consider,—What is the question trying?—Against whom is the testimony offered?—What is the nature of it?—To what purpose is it adduced?

Now I understand, or I am grossly mistaken in the whole of this proceeding, that the object of it is to show, that the prisoner at the bar is guilty of high treason, of the species charged in this indictment, by the means, and by overt acts, which amount to a conspiracy, with many others, to carry that treasonable intent into execution; that is the nature of the charge.—The consequence I conceive most clearly to be this, that though it is an indictment for high treason, yet, because that high treason is to be carried into execution by the means of a conspiracy, that all the evidence which will, by law, be admissible upon the trial of a minor conspiracy, a conspiracy not treasonable, will be admissible likewise upon the present inquiry.

Now, my lords, I take it to be a settled rule in the trial of an indictment for a conspiracy of every kind, that when once you have established, that the prisoner at the bar has conspired together with others, not then upon trial, in the indictment—nay I go farther, not charged in the indictment:—When I say established, I do not mean established decidedly, that they are guilty of the conspiracy, but that there is evidence admissible, and to be laid before the jury, upon which they are to exercise their judgment—then I have a right to give in evidence the acts of others, so connected.

My lord, it cannot be disputed, that some evidence to prove the conspiracy is in the possession of the Court; nay, it is in the possession of the jury; for it cannot be in possession of the Court, without being in possession of the jury; they have heard it, of course, as it has been admitted.—We have got thus far, that the prisoner at the bar was engaged in a conspiracy, together with *Martin and Margaret*—they two corresponded by letter—they two conversed, in writing, as has

VOL XXIV.

been rightly stated by Mr. Solicitor General.

What is the object of the conspiracy?—We contend it is to overturn the government, and depose the king, whereby it is obvious, to any common understanding, that the life of the king is in danger.—Now I contend, therefore, with the utmost deference to the Court, that this letter is competent evidence—no matter how far it extends, or how short it goes—if it goes any step at all; but I confess that I feel, and I am sanguine enough to state, that it goes pointedly, importantly, and directly to the matter of high treason charged in the indictment.—I said I would not repeat a syllable that had been urged by the gentlemen before me, but I desire to be understood, that my mind goes with them entirely, and accedes to every part of their arguments.

I beg leave to advert to another part of this letter, that, I say, goes pointedly to show, that the design was for compassing the mischievous, the traitorous,—I had very nearly said the personal destruction of the king. What I advert to in this letter, I will read to your lordships in the very words:—"The king went yesterday to meet his parliament." Your lordships will mark the expression; it is very decent, but—

Mr. *Erskine*.—I must beg to interrupt my learned friend; I beg his pardon; that part of the letter has been, within these three minutes, expressly given up by Mr. Serjeant Adair, as counsel for the crown, who finished what he had to say before my friend got up, by saying, that that part of the letter which my friend now chooses to read aloud, in the hearing of the jury, he did not mean to contend to be evidence against the prisoner—and, therefore, if the letter comes to be read, the letter will be read with the omission of that part; or if the omission did not take place, that part is admitted by Mr. Serjeant Adair, not to be evidence against the prisoner.

Lord Chief Justice *Eyre*.—The interruption is not quite proper: because, if it were so, that my brother Adair had distinctly admitted it in that manner, yet that could not conclude the argument of another learned gentleman, if he was of opinion he could maintain it.

Mr. *Erskine*.—Does your lordship think, that it is consistent with the rules which must bind us upon this occasion, that, in arguing the admissibility of a piece of evidence, they are not merely to state to the Court the general nature of it, so that the Court may give its decision before a thing, which, perhaps, is not afterwards to be received in evidence, should make any thing like an impression, but to read the paper itself.

Lord Chief Justice *Eyre*.—No; only so much of the purport as is necessary to inform the Court of the nature of it.

Mr. *Erskine*.—My friend is not merely reading the letter, in that part which one of the counsel, at least, admitted not to be evidence, but he is commenting upon it, step by step.—I apprehend my friend may state, that



there is an expression personally reflecting upon the king; but, in order to argue the admissibility of any piece of evidence, it is not to be read by the counsel for the crown in the hearing of the jury; because if, after the counsel has read it, in the hearing of the jury, the Court say it is not admissible evidence against the prisoner, it may lead to affect the prisoner, because it may affect the minds of the jury, in a manner inconsistent with the nature of the testimony received on the trial. I am now, I understand, in possession of your lordships judgment upon this point.

Mr. Serjeant *Adair*.—As my friend has done me the honour to advert more to what fell from me than the weight of it seemed to deserve, I beg leave to state and explain what I did say upon the subject. I did state, and I do not mean to retract it, that the part of the letter which I alluded to, when I spoke, was not the ground upon which we offered it to your lordships, and would not, of itself, make that evidence against the prisoner; but I did never state, that if there was that in the letter, upon the ground of which I contended it was proper evidence, as applicable evidence to the charge against the prisoner, that the whole context of that letter should not be taken together, in order to show the intention of the parties who are implicated in that design. I have never admitted that. But his lordship has certainly truly said, that my admission does not preclude any other gentleman arguing upon that ground. I wished to repeat what it was that I did state, that I might not be accused of having admitted that which I never admitted.

Mr. *Bearcroft*.—I have received this interruption with the greatest patience, because it is made by a counsel for a man now trying for his life; if it had been made in any other place, and in a civil cause, I could not have forbore instantly to express my astonishment at the gross irregularity of the interruption; because I conceive it is not only the privilege, but it is absolutely the duty of a counsel, when he is arguing upon the admissibility of evidence, to state that evidence to the Court. If, it can, by any other means, be argued, my learned friend will be so good as tell me how that is to be performed, for I really cannot conceive.

Lord Chief Justice *Eyre*.—The counsel is to open the nature of the evidence.

Mr. *Erskine*.—I am in possession of the judgment of the Court on that which Mr. *Bearcroft* calls an interruption.

Mr. *Bearcroft*.—I am certainly aware, that it may be done in that shape of opening the nature of the evidence; but with great submission to the Court, I conceive that was precisely what I was going to do. I do conceive, with great deference, that it would be extremely improper in me to be reading the evidence, from the beginning to the end, under colour that that should be necessary to

argue as to the admissibility of it. I do admit, that it is sufficient; nay, that more ought not to be done than to state the nature of it; but I conceive that the nature of that part of it, which I point out as one of the main grounds of the admissibility of this letter, are certain particular expressions made use of in it. What strikes me, at this moment, is contained in two lines and a half:—“Nay, I am told a woman, moved and seduced by the instigation of the devil, and traitorously intending, &c. did, in St. James’s-park, take off her patten, and threw it, with all her force, whereby the glass of the state coach was broken, and his majesty put in fear. God save the king; for, if, &c. as *Gerrald* says,”—

I do submit to the Court, that this is important evidence to the very point of the indictment; namely, for the purpose of showing a mischievous intention to the king. Because this is a letter from one of the conspirators to another of the conspirators, exulting in the transaction, enjoying it, and stating it as good news, for his purpose, to his brother conspirator. That is the light, with great submission, in which it strikes me. I conceive that that is an additional ground upon which this letter is admissible.

Mr. *Bower*.—I should be ashamed to trouble the court with a word upon this objection, for the sake of the piece of evidence that is now in my hand, because it does not appear, of itself, to be of so much importance as to demand so much attention; but it will be of very considerable consequence in the course of these trials, if a piece of evidence, offered to the court under the circumstances in which we offer this letter, should not be considered as good evidence.

I will attend to what your lordship suggested, that the duty of counsel is to open the tendency of the evidence, at the time it is offered and objected to; and, with great deference to my friends who have gone before me, I do not think that they have opened the tendency of that part of this letter, which appears to me to be material, and to be an indisputable ground why it should be received in evidence.

I must beg your lordships to advert to the state of the present cause. We have already proved, as against the prisoner, a paper, signed with the name of John Martin, as chairman, at a meeting of the society of which he himself is secretary. This paper was brought home to him by evidence, and by which he, therefore, admits, that Martin was the chairman of that meeting; the date of the letter, which I hold in my hand, is the 23d of January, 1794; it is subsequent to the period of that convention in Scotland, of which we have heard so much, and it is relative to that convention. The letter which I want to read now is from Mr. Martin, who we have proved to be so connected with Mr. Hardy, to their delegate in Scotland, who was at that time, in

consequence of the interposition of the civil magistrate, in confinement, as it appears, to encourage him to proceed in these efforts, which he was sent there to attempt, by telling him that subscriptions will now be raised, which will be an assistance to him, and by informing him that it may be thought advisable to have another meeting here, in a commodious place, for the purpose of carrying into effect the views of the convention, which the magistracy of that country interrupted. That is the tendency of the greatest part of the letter, which we now offer to the Court; and if we have brought ourselves into the situation of showing, as I trust we have, that Mr. Hardy has admitted Mr. Martin to be chairman of the Corresponding Society; if we have proved that the object of that society was to accomplish certain purposes; when I say we have proved, I take it we have given evidence to prove it; if we have proved, that the objects of that society were, to carry certain purposes into effect, by means of the convention; if we show incitement from a person proved to be connected with the prisoner in the way Martin has been proved, to proceed in those steps which are the objects of that convention, and to persevere in those measures, which were the measures used to bring about the ultimate purposes of that convention, we may prove a direct act, done in furtherance of that conspiracy, by showing a direct incitement, by a letter in the very words of the overt act charged in this indictment, to persevere, and go on with that conduct, which was to lead to the ultimate end that the society had in view.

Lord Chief Justice Eyre.—I understand that this letter is not proved ever to have come to the hands of Margarot; you call it a letter; it is, in truth, merely a paper, in Martin's hand-writing.

Mr. Bower.—The argument would, perhaps, be stronger, if it had come to his hands; but, with great submission to your lordship, it is evidence of the intent of this Mr. Martin to encourage the party, who appears to have been intended to have been addressed by this letter, in the general purposes for which this society has been established, and which they were going to carry into effect; but it is not so strong, to be sure, as if I could prove that it arrived at Margarot's possession, because, I take it, that would put it out of all doubt; but any letter, written from a conspirator in the connexion we have proved Mr. Martin to be, having proved him to be chairman of that very meeting, the object of this letter being to excite the person to whom it was written, to persevere in these measures, and to forward those purposes, which we have proved the society had in view, and that Martin, the man who writes this letter, particularly had in view, by the transactions at the Globe tavern, is not, I conceive, a recital of any thing that has passed, but a direct incitement to go on with that act, which we are about to

prove, as being the act intended by this society to be carried into effect, by the joint or individual efforts of the members of the society. It does appear to me to be material, that we should now know whether or no, when we have established an intimate connexion between Martin and the prisoner, that an act done by Martin, in direct furtherance and prosecution of the main design, should not be admitted as evidence against the prisoner, though we have given evidence, that they were connected in the individual and particular act which is the subject of the evidence that has been offered. I submit to your lordships, that this is evidence which, in this stage of the cause, ought to be received; and it is not for the materiality of this piece of evidence, but for the sake of the principle that we wish to have established.

Mr. Law.—The ground upon which I meant to address your lordships has been, in a great degree, anticipated by what has fallen from Mr. Bower.—In considering whether any written evidence, in general, is admissible, I will consider, first, what is the relation between the party who wrote this letter, the person to whom it is written, and the party to be affected by it,—There has been evidence to prove, that there existed in the members of this society, a conspiracy to subvert the government; then I submit to your lordships, that, having laid that ground, it is in the ordinary course of proceeding to give evidence of the detached acts of any one individual, conducing to the general end and purpose to be effected by the general conspiracy.

Then what is this act? And is it an act which falls within any of the overt-acts charged upon the face of the indictment?—I think it is peculiarly applicable to that overt-act which states that they composed and wrote, and caused to be composed and written, divers books, pamphlets, letters, &c. containing incitements, encouragements, and exhortations, for the purpose of accomplishing this object of holding a convention, for the purpose of deposing and ultimately procuring the death of his majesty. Now is this letter in furtherance of that object? it contains the common incitements and exhortations of this sort; it encourages him to persevere, and states as a ground why he should persevere, that the funds of the society were increasing; that their numbers were increasing; and that their prospect of success was increasing. That being stated (for I am not at liberty to detail the particular contents of the letter), as the subject and object of the letter: the only question is, whether such a letter as that, of which it may be predicated, that it contains an exhortation and incitement to this object, is or not to be received in evidence. I conceive there can be no doubt it is an excitement and exhortation upon this subject, and if it be that it is admissible.

Mr. Erskine.—My lord, unless I mistake the cause, and the stage we are now arrived



at in it, this is novel. I think I may call it a phenomenon in the history of trials for high treason, and in the practice of a court of justice. My lord, standing here towards the middle of the second day, I must appeal to the honour of the Court, and to the candour of the bar, whether we who are of counsel for the prisoner have not been extremely ready,—perhaps, readier than we might altogether justify to our client in a capital case,—in permitting the reception of evidence, having troubled your lordships with no arguments, having asked hardly a single question of any witness that has been sworn. I am persuaded, when your lordships recollect the course that this cause has taken, that you cannot but see that we should have made no sort of objection to the reading of this letter, had it contained nothing more than my learned friend Mr. Garrow very decently, in my opinion, and very properly stated to the Court, considering and properly considering, that though the Court might be involved in the difficulty in reading a part of a letter, which part could in no instance be evidence against the prisoner, yet that the technicality of the evidence might unfortunately call upon your lordships to direct a jury to do that which a judge cannot direct a jury to do, because human nature will not permit the accomplishment of it—to discharge from their minds the recollection of what they have heard. My friend did, therefore, properly not even open the generality of that part of the letter; but what have I in this cause to do with any thing that Mr. Martin might write, and which may appear for any thing I know to be an unpublished letter in Mr. Martin's possession, and therefore upon no principle of law to be evidence at all. I conceived that we were debating it as far as related to the prosecution of what was called a plot and conspiracy; namely, that which was published in all the newspapers, and which your lordships have been engaged two days in hearing read. I must be a fool to stand here and object to reading a paper which contains nothing more than what the jury have been employed two days of their precious time in hearing; but so it went on, and at last Mr. Serjeant Adair said, that, which if it had been said at first, I would have waved my objection, and the jury should have heard the letter, and that part would have been crossed out, or the officer would have been desired not to read it; and I defy any man of common sense to say he could suppose I should object to it. Do not let any man explain away that which I did say, and that which the honourable and learned serjeant stated, with the sense that belongs to him, and the humanity which, I trust, will ever accompany that sense. He stated that he did not mean to insist upon the jury hearing those lines read: he thought they ought not to hear them.

Then comes the next learned counsel, and he makes not a single observation upon any

other part of the letter which is stated to be in furtherance of that which is called the conspiracy; but he fastens upon that, and proposes to read that which the counsel who went before him admitted was no evidence against my client. I stood up to object, not to interrupt. I stand here to object whenever there is a legal objection open to me. I had your lordships judgment for the foundation of my objection; but my friend paid no regard to your lordships judgment: for after I was possessed of your lordships judgment, he went on and read the very words against the reading of which I objected; and having done so, he kindly tells me that as I am counsel in a criminal case, he receives my interruption with a gentleness with which he would not receive such an interruption in a civil cause. He says this after he has done that which is illegal, and has not been stopped in the doing it, though I objected to it, and was in possession of the judgment of the Court.

My lords, this is no trifling matter, give me leave to say, I stand here for the life of an innocent man; and I stand here for the law and constitution of England, and I will suffer nothing to be done while I stand here that is not consonant to both. Then where are we got to now in the debate? We are got to that which fills me with alarm and apprehension; it is an object of a magnitude so great, so mighty, and what I am so unaccustomed to consider, that I hardly know how to grapple with it, or how to address myself to your lordships.

It is truly stated too by the learned serjeant that what the crown profess to make out by the evidence they have been offering to your lordships for a great season is, that Mr. Hardy was engaged in a conspiracy. Why is that unfortunate man at the bar to be the only victim of a conspiracy? I do not mean the only one; there are eight or ten indicted with him. How many thousands of his majesty's subjects are meant to be brought to this place I cannot tell; for the conspiracy that is alleged goes to the members of every one of the societies. I say, in my judgment, upon the evidence that is before the Court, every man who has been a member of these Corresponding Societies; who has been a member of this Constitutional Society; every man who has been connected with those acts, if the acts constitute a conspiracy to subvert the government, is liable to be put into the same situation with Mr. Hardy; and any thing that is written by any one person belonging to either of these societies would be equally evidence against him.

The whole distinction seems to be this, and that distinction seems misunderstood. I agree with Mr. Solicitor General in what he said, with regard to lord Stafford's case, founding itself as far as relates to acts. Now if this had been within the scope of the business under examination, an act done by Mar-

garot and by Martin, I shall admit that such act done would be evidence against the prisoner; but I am objecting to a letter, more especially a letter that never found its way to the person to whom it was written; that it was ever intended for Mr. Margarot, as far as the evidence goes, we do not know; but by the contents of which letter we are sought to be affected.

Now there is only one thing I am anxious about. I wish to submit it to the justice and to the discretion of this Court. Suppose part of this letter is evidence, and part of it is not evidence, is that part which is not evidence to be read?

It happens every day that your lordships direct part of an answer to an interrogatory to be read in a court of equity; but you will not allow other parts to be read, because they are not admissible evidence. Now all that I object to is, the reading this account of an old woman throwing her patten at the king's coach; it is something so perfectly ridiculous; that aman's writing such a trumpery anecdote as that, should affect a man trying for his life in such a case as this, it would be an insult to suppose; but at the same time it appears to me to be a dangerous precedent, to allow any thing to be read as evidence which has no connexion with the transaction before the Court, but is a mere flippancy, which the writer of a letter happens to put into it; which letter has in it matter that may become evidence.

Lord Chief Justice Eyre.—This question has gone into a great length of discussion; but I blame nobody, as there was some difference of opinion in the Court upon the former occasion; therefore it required that this question should be more fully discussed.

I agree with Mr. Bearcroft, that he has stated truly what the nature of this question is; namely, that if this were merely a trial for a conspiracy, this would be evidence against one of the parties in that conspiracy, because the question, whether this prisoner is to be reached upon the specific charge against him, is, undoubtedly, a question, whether he is to be reached by that medium; and if the medium is once established, that question arises, upon which I will say no more at present.

It is perfectly clear that in the case of a conspiracy, the general evidence of the thing conspired is given in evidence, and then the party who is at present brought before a court of justice to answer for it is to be affected for his share in it; the question then is, whether a paper under the hand of a person, who is proved to be one of the conspirators, shall be received in evidence, where it is nothing more than a paper under his hand? For, as I take it, as this case stands, it is not a letter sent to Margarot. There is no proof that Margarot ever received any such letter; and, therefore, it may be a paper merely written privately by Martin, who is the person in whose hand-

writing it is stated to be, and may never have gone out of his hands. The question is, whether under these circumstances such a paper is to be admitted in evidence, in a case in which another person now stands at the bar; and, I confess, that this does not appear to me to be sufficiently distinguished from the case which we just now determined, to satisfy my mind that it ought to be received in evidence.

It is undoubtedly true, that the general plot is to be made out by proving the transactions of others, to which the prisoner at the bar may not be immediately a party; but then, how is it to be proved? Is it to be proved by the mere acknowledgment of these other parties, and so made use of against the prisoner now at the bar? For instance, here is a conspiracy charged. Suppose a witness should come and say, I heard Thelwall say that he was engaged in such a conspiracy; and I heard Martin say he was engaged in such a conspiracy; and I heard Margarot say he was engaged in such a conspiracy. My present apprehension is, that that would be extremely good evidence personally against the parties, who said it to prove against them individually, that they were concerned in that conspiracy, but that it would be no evidence whatever against third persons, as was the case on lord Stafford's trial. A witness proved that he heard A. B. and C. converse upon the subject of a conspiracy; that is a direct proof that these three persons conspired, and there the conversation of one is evidence against the other, and so on; that is evidence of a transaction, a fact, not hear-say evidence; and not evidence of a party's acknowledgment, only inasmuch as it is an acknowledgment by one in the presence of the others, they acquiescing, and therefore becomes distinct and proper evidence. But I have always taken it that with regard to these personal acknowledgments of having meant to incite,—for that is the nature of this letter—I have always taken it that that was proper evidence, if the party who was to be affected by it happened to stand at the bar to answer for it: but if another person was indicted by himself, that there could be no evidence received against that person, but the evidence of facts proved by the witnesses, who prove the existence of the facts in regular evidence: confessional evidence is *ad hominem* only. If it happens that a matter of fact is evidence against A, by evidence of the truth of that fact, other than the confession of A, that does also become evidence against B, from the circumstance of B being connected in the plot, and B being bound by all that A has done. But the course that has been observed in the State Trials that I have read, has been that confessions have been made evidence against the individuals only who confessed. This is of the nature of confession, and nothing more; that has been considered as evidence only against the party, and is not to be



received where that party is not the person before the Court.

Lord Chief Baron *Macdonald*.—On the last question before the Court I confined what I said to the exact circumstance of the case, namely, that the bare relation of acts by one of several persons to whom the conspiracy is imputed to a perfect stranger to that conspiracy, is no more than an admission which may possibly affect himself, but cannot possibly affect any of his co-conspirators, it not being an act done in the prosecution of that conspiracy. But, I confess, there appears to me a material distinction in this case. This is a paper which is addressed by one of several conspirators to another of those conspirators; it is introduced as subservient to the proof of the general nature and tendency of that conspiracy, which is alleged and endeavoured to be proved as the foundation of affecting the prisoner with a share in that conspiracy.

Now it seems to me that one conspirator addressing a paper to another conspirator, having relation to that conspiracy (not merely a bare description to a stranger), that one of them addressing that paper to the other is an act complete in that single conspirator, although that paper should be intercepted, or although it never should reach that person for whose perusal it was intended; that distinguishes this from the other case; it is a different act in one, though it does not reach the other in that sense; it is an act by one of the conspirators, which in order to show the nature and tendency of that conspiracy may be read as against any other.

Mr. Baron *Hotham*.—I remain of opinion that in the last case, the letter then offered in evidence ought not to have been suffered to be read. That letter, however, I consider as a very different letter from this; it was enclosing some songs, supposed to have been sung at a meeting, sent to a totally indifferent person, and that was all that it contained. This letter is written by a man who has been proved to be the chairman of the meeting at the Globe-tavern; it is stated to be written to, though not received by, Margarot, who has been proved to be the delegate sent by that meeting into Scotland; and it is stated to contain matters respecting his particular mission to Edinburgh. It is stated to contain matters of incitement, and encouragement to him to proceed in the cause in which he was engaged; namely, in the cause in which he was engaged by the procurement, by the consent, and by the direction of that meeting in London; and that meeting in London has been proved to be composed of the prisoner at the bar, of the writer of this letter, and his correspondent to whom it was intended to be sent, together with many others.

Now, therefore, I do consider this as strong evidence, to show that one of that meeting so blended together as they are with the prisoner, sending such a letter tending to

†

incite and encourage their own delegate to proceed in the business, upon which they had particularly sent him, and for which they had especially commissioned him and empowered him to act, ought to be admitted as evidence to prove the sense of these conspirators, who were also proved to have been together upon that day.

Mr. Justice *Buller*.—The case to which I alluded just now was, that of William lord Russell,\* where my lord Howard, in his examination, goes very much at large into evidence of what passed between him and lord Shaftesbury; and in parts of that evidence he goes on to say that he supposed these things were told to lord Russell; that lord Russell properly objects to: he says it is hearsay, and does not affect him,† but it is part of the evidence which is given, and you find much relied upon by the chief justice‡ in summing up to the jury, with a view to that question which I just now stated, as the first which presses in point of order, and which question, in my opinion, is always to be distinct from the second question; namely, whether it does or does not immediately affect the prisoner. The evidence given there by lord Howard is, that in a conversation with lord Shaftesbury, he asked him what forces he had, to which lord Shaftesbury answered, that he had enough, that ten thousand brisk boys were ready to follow him whenever he held up his finger.

When this is summed up, the chief justice § states it to the jury, repeating these words, as evidence of a consult, but that it does not affect lord Russell.

Then how stands the case here? The first question to be made out is, that there was some conspiracy to affect the life of the king;—To make out that question you must go into evidence of what was done by other persons. When established, I agree that that would not affect the prisoner, but it is necessary first to show that there was such a conspiracy on foot, and then you go on to the second question, to see whether there is or is not evidence to prove that this prisoner was acting a part in that conspiracy. Now it seems to me that the question will stand a little clearer, if we suppose that a conspiracy of the nature contended for on the part of the prosecution had gone on without the intervention of such a convention, as has been here proved, by persons who were in the habit of committing their resolutions to writing, if such a combination had existed, how in the nature of things could it be made out, but by the declarations and the conversations of those who were parties to it? And it seems to me that the way in which my brother Adair considered this question, is a material one; suppose an

\* See it in this Collection, Vol. 9, p. 577.

† See Vol. 9, p. 608.

‡ Pemberton.

§ See the summing up, Vol. 9, p. 695.

equivocal expression were used, should not I prove by conversation of persons there how they understood it; it is evidence that they meant that their plan should go to such an extent, then it becomes a secondary question, whether the prisoner so understood it or not; it is an expression equivocal, and if it is proved on the part of the prosecution that some meant to go to that extent, it is open to the prisoner to say it was not so meant by me, nor did I so understand it. But the question is now not upon the effect of the evidence, but whether it ought or not to be received; and inasmuch as it goes to the existence of a conspiracy, it seems to me that it must be received. What effect it will have must be considered hereafter.

Mr. Justice *Grose*.—I am of opinion this evidence must be received for the purpose of showing that there was a conspiracy, and of what nature that conspiracy was. In this case the address has just now been produced and read; and in that address it appears that Martin was the chairman, the prisoner the secretary, and that there was a correspondence, both between the prisoner and Margarot, and between Martin and Margarot; that complicates or implicates these three persons in a business of this sort. Then is it not very material for us to hear for the purpose of showing the nature of the conspiracy, the extent and the intention of the parties, what one conspirator writes to the other, respecting these very acts that are done in the course of transactions relative to this very plan? And when it is said that this is merely a confession or a writing, I think it is more because we know very well that in many circumstances of this sort it has been determined that, *scribere est agere*; and the writing here is an act, and it is such an act as may show the extent of the plan, that there was a plan, it may show for any thing I know the intention of the parties to that plan. I confess, therefore, I am of opinion that this evidence ought to be read.

Lord Chief Justice *Eyre*.—Then now you will read it.

Mr. William Walker (sworn)—Examined by Mr. Garrow.

I believe you are an attorney?—Yes.

Are you acquainted with Mr. John Martin?—I am.

Are you acquainted with his character of hand-writing?—I am.

Be so good as look at that letter, and tell me whether the whole of it, in your judgment, is his writing, particularly the signature; do you believe that to be Mr. Martin's hand-writing?—I do.

Be so good as look at the superscription, do you believe that likewise to be his hand-writing?—I do.

[It was read.]

“*Richmond Buildings Jan. 22, 1794.*

“My dear sir:—I dare say you think I have forgot you, from my not having written to you,

but you know my sentiments so well that it was unnecessary for me, and would probably have been improper to say much on the subject of your mission; and with regard to lord Edward, I have not been able to get any thing like a settlement. To-morrow is the first day of the term, when I shall rule the sheriff to return the writ of summons.

“We had a meeting on Monday. I was in the chair. The newspaper gives our numbers at 500, but we were nearer 1,500. Every thing was well conducted, that is to say, regularly; and the proceedings were tolerably bold. Mr. Hardy, I dare say, has sent you a copy of the address and resolution.

“Your conduct receives universal approbation; and though I at one time dreaded the want of money, yet that is now over. Those who opposed the subscription at first, are now putting their hands to the very bottom of their pockets, and swear by God you shall be supported with the last guinea. We must have another general meeting in a chapel or some large place, and declare the purpose of a subscription, and, I think, we shall get plenty of the needful for that and other purposes. Have you read my letter to lord Lauderdale? Do you incline to try the writ of error? What do the Scotch lawyers think of it? And what do you think of the legal knowledge of my countrymen? I firmly believe that the law is the only science of which they know nothing.

“The king went yesterday to meet his parliament. They sat till six o'clock this morning. The papers are not out; but I am told only twelve members were for peace. I am glad the minister has so great a majority within doors for the war, and that the people have a greater majority without doors against the war. The swinish rogues had the impudence to write, no war, on all the doors and corners of the Houses of Lords and Commons; and they had even the audacity to groan and hiss while his most sacred majesty was passing to, and from, the House. Nay, I am told, a woman, moved and seduced by the instigation of the devil, and traitorously intending, &c. did, in St. James's Park, take off her patten and threw it with all her force at his majesty, whereby the glass of the state-coach was broken, and his majesty put in fear. God save the king, for if, &c. (as Gerrald says),

“I am happy to find you are in good spirits suffering the mild and just sentence of the law. You may remember that I told you to be thankful if you were not hanged.

“The society is increasing rapidly both in spirit and in numbers; and the rich now begin to come among us, and to sit down with pleasure among the honest men with the leathern aprons.

“I could write to you strange things, but I know not but this may be read by somebody before it comes to your hands, therefore excuse the nonsense.

“I think there is a struggle between Mrs.



Margarot and you, who shall bear this with greater fortitude, and that those who suffer the least feel the most. When I read your letter to the general meeting, I could see the tear starting in the eyes of the honest men to whom it was addressed, and the succeeding groans helped to relieve their swollen hearts.

"I think you should execute a power of attorney to some person, authorizing him to act for you generally, in case you should be hurried away. And if you think well of the writ of error, give me an authority, and I will immediately set about it.

"Between us, Muir and Palmer have put themselves into the hands of the opposition, who, I fear, will use their case no farther than as an argument to help themselves into administration.

"Mrs. Martin desires me to say more for her than I have room. Were it not that you are safe enough, and all of us married, I would almost think her in love; but it is with your conduct more than your person, adieu. Believe me to be, my dear sir, your sincere friend, and fellow-citizen,

"J. MARTIN."

"Citizen Gay says more than I dare write. You know the frank sincerity of that citizen, and if either prayers or any thing else in his power is wanting it may be depended on.

"To Citizen Maurice Margarot, Tolbooth, Edinburgh"

Mr. John Gurnell.—I found this paper at Hardy's house.

[It was read.]

"Tolbooth January 24, 1794.

"Dear Hardy;—I have just received your letter, dated (by mistake I suppose) the 19th, giving me an account of the dinner, of Ramsay, and inclosing a 10*l.* note. I thank you, my valuable friend, for the kind concern you show; but I wish the society may not forget me altogether: however, should they, I am determined to pursue the same line of conduct even if I must pursue it alone. I will, however, remark to you in private, and this letter is meant as a private one, and you may make what use you think fit of it, that the Sheffield Society have behaved far differently from our own, towards their delegate, and even towards his family. If you publish my trial, it might be necessary to place a print of my handsome figure in front, if so, Mrs. Margarot can furnish you with a miniature, whence an engraving can be taken: if that is done, pray let the engraver put into my hand the paper, containing the questions to the lord justice Clerk, and let the last of them be legible, viz. Did you not say, that the mob would be the better for losing a little blood?

"It will have a great effect on the public mind: I was going to write a preface to the trial, but on reading the account of the meeting at the Globe tavern, I thought it might be

better for the society themselves to say something on that head; but I must again observe, that the Sheffield people seem more in earnest than the Londoners. Pray write to Norwich: I hope Sutton has paid that bill; if so let Mrs. M. send me 15*l.* of it, and after paying you, keep the remainder: I ask for that money, because I am in arrears here more than the society has sent me; I will endeavour, if I can collect a few of the extraordinary expenses to send you a list of them. Since my last, we have had an additional padlock put upon our door, and the captain of the Tolbooth is not intrusted with the keys at night, but delivers them to the magistrates, and calls for them again in the morning. Every thing here shows fear on the one hand, and discontent nearly ripe on the other: here they make no dinners, but yet they meet. It appears, that worthy Skirving was unnoticed in your cups; the Scotch ladies, however, are more kind than the London Corresponding Society; and in the effects of their regard for him, I partake. Gerrald is not yet arrived. I sent the society (by the way of Sheffield) a copy of Scott's indictment; they will make what use they think proper of it. Has Martin done any thing for me? The duke of Portland, now that he joins ministry, and coalesces with the landed gentlemen, ought to pay that bill for his brother, lord Edward Bentinck, or they both ought to be exposed to the world, and the abuse of parliamentary seat-jobbing made more public. Armed associations are, I perceive, now set on foot by the rich, wherefore should not the poor do the same? Are you to wait patiently until 20,000 Hessians and Hanoverians come to cut your throats?—and will you stretch forth your necks, like lambs, to the butcher's knife, and, like lambs, content yourselves with bleating? Pray let me hear from you soon; remember me to Mofatt, Muir, Palmer, and all suffering brethren.

"M. M.

"Pray deliver the inclosed, and show her this."

"Mr. Thomas Hardy, No. 9 Piccadilly, London."

Mr. John Gurnell.—I found this paper at Hardy's house.

[It was read.]

"Bristol, January 28, 1794.

"Fellow Citizens;—I am again authorized to write to you, signifying the gratitude of our society for your second epistle, which came to my hands the 3rd instant. After reading its contents, I collected as many of our friends as I conveniently could that evening:—we read—we blushed—we took courage; we did more, for we resolved on assembling, as we had an determination we intend to do."

nient speed: as soon as this is effected, we shall send a copy or copies to you. From the *Courier and Evening Gazette* we have had information of the trial of Mr. Margat, and his sentence to fourteen years transportation. We are by no means at a loss in forming a judgment of the noble cause in which he, with others, are embarked, nor would we be frightened at such sentences. You see, citizens, your second epistle has quickened our courage, and vivified our patriotism, and roused us to resolution; and more, our number is now considerably increased. Perhaps your third epistle may do greater things still: we are sensible 'tis a noble--'tis a virtuous--'tis a godlike and immortal cause in which we are now mutually embarked; and though, for parts, our effort can be but a feeble one, yet the cause we espouse is mighty--is energetic;--it will finally prevail and prosper. It is our firm opinion, could we but arouse them, that patriots would become nearly the majority of our city. We expected to have had the dozen of the Englishmen's Rights, which you mentioned in your first epistle.--Hope you will send them speedily.--We are, fellow citizens, yours, sincerely,

"The Bristol Society for Constitutional Information, &c."

"Mr. Thomas Hardy,  
No. 9, Piccadilly, London."

Mr. Garrow.--Here are a great number of printed circular letters.

Mr. Edward Lauran.--I found them at Hardy's house.

[One of them was read.]

"Citizens!--The critical moment is arrived, and Britons must either assert with zeal and firmness their claims to liberty, or yield without resistance, to the chains that ministerial usurpation is forging for them. Will you co-operate with us in the only peaceable measure that now presents itself with any prospect of success? We need not intimate to you, that notwithstanding the unparalleled audacity of a corrupt and overbearing faction, which at present tramples on the rights and liberties of the people, our meetings cannot in England be interrupted without the previous adoption of a convention-bill, a measure it is our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared, while it is yet in our power, so as to guide and direct the future operations of the friends to freedom. Rouse then to one exertion more; and let us show our consciousness of this important truth: 'If we are to be beaten down with threats, prosecutions, and illegal sentences, we are unworthy--we are incapable of liberty.' We must, however, be expeditious: Hessians and Austrians are already among us! and, if we are not soon armed, a cloud of these armed barbarians may shortly be poured in upon us:

END. LXXV

let us form then another British Convention; we have a central situation in our view, which we believe would be most convenient for the whole island; but which we forbear to mention (intreating your confidence in this particular) till we have the answer of the societies with which we are in correspondence. Let us have your answer then, by the 20th at farthest--earlier, if possible, whether you approve of the measure, and how many delegates you can send, with the number also, if possible, of your societies.--We remain yours, in civic affection, the London Corresponding Society.

THOMAS HARDY, secretary."

"For the management of this business we have appointed a secret committee; you will judge how far it is necessary for you to do the same."

Alexander Grant said, he believed the following letter to be the prisoner's handwriting.

[It was read.]

"London, March 12th, 1794.

"Citizen Buckle;--I have just time to inform you that I saw our worthy delegate, citizen Margat, last Friday, on board the *Surprise Transport*, at Spithead, about five miles from Portsmouth Harbour.--He is in good health and high spirits, no ways depressed, although Providence seems to frown;--he is conscious of having broken no law in this country, but only doing his duty as every good citizen is bound to do, for promoting the happiness of his fellow men, by opposing every measure, and any man, that wantonly violates all laws, human and divine.--He has the consolation in his own breast, as every honest man will have, when he reflects, that he is not suffering for evil doing, although the enemies of mankind are punishing him as an evil doer;--but, according to human appearance, the reign of the beast of civil and ecclesiastical power is almost at an end.--Thanks to the Supreme Ruler of the universe for his great goodness hitherto, and the bright prospect before us.

"I delivered the twenty pounds you gave me for his use, into his hand; it was very seasonable.--This moment a friend has shown me a letter from Muir, informing him, that the convoy has hoisted her signal for sailing; and I am afraid, by this time, they are gone from Portsmouth: if so, they are without many necessities that were preparing for them.--I saw the captain; he appears to be a very good kind of man, and bears an excellent character.--I hope you will excuse me entering into detail further, for I have not another minute to spare.--If any friend you can trust come to town, I will give him a full account.--What think you of a convention? Farewell.

THOMAS HARDY."

Mr. John Curnell.--I found these papers at Hardy's house.



[They were read.]

"Fellow Citizens,—The Society in Strathaven received your circular letter some time ago, respecting another British Convention, to be held in England; and finding it would be inconvenient for them to send a delegate for themselves alone, the cause being much suppressed here by prosecutions, which we are subjected to from the petty sheriffs in our neighbourhood, we have united ourselves with the societies in Kilmarnock, Galston, Newmills, and Dorvill; accordingly a meeting of delegates from these societies, and that in Strathaven, was convened on the first current, where the measure met with the fullest approbation, and a delegate was elected for the general convention, and a secret committee appointed to conduct the business.—You will, therefore, forward your orders to us, when and where the convention is to meet with any other instructions or information you may judge necessary; we shall instruct our delegate, respecting the number and strength of our societies, and are happy to fraternize with you in any thing that may tend to promote the general good. We remain your's, in the cause of liberty, for the united societies as above,

"ALEX. MITCHELL, secretary.

"Strathaven,  
9th April, 1794.

"For the London Corresponding Society.

"Direct to Alex. Mitchell, Manufacturer,  
Strathaven, county of Lanark.

"Mr. T. Hardy, Shoemaker,  
No. 9, Piccadilly, London."

"Newcastle-upon-Tyne, 24th April, 1794.

"By desire of a number of friends to a radical reform in the constitution here, I make free to trouble you.—We live in a place where an aristocrat magistracy endeavours to stop the genial and benign spirit of national liberty from spreading, notwithstanding a very great number are found here that dare assert the natural and unalienable rights of man, and bear their testimony against the tyrannical encroachments of assumed power on those rights.—A good number have formed themselves into societies, and meet weekly, admitting none but known friends; and have assumed no name but that of Newspaper-companies; these were in great spirits while the British Convention continued to act, but after their suppression, a damp was cast on the whole.—Subscriptions were ready to be sent off the very night they were suppressed, and the Gazetteer stopped, which has since been remitted to London, for the use of the persecuted worthies, Muir and Palmer.—Being charmed with your masterly and bold approbation of the conduct of your delegates and noble martyrs for truth, Margaret and Gerald, and find your name signed Secretary of the Corresponding Society, we wish to

your example; and beg, if you think us worth your notice, give us your views and intentions, as soon as convenient, which, I hope, will be a means to stimulate and increase our numbers. Lest this should not come to you, as I have an uncertain direction, I forbear troubling you more at present, in hopes of being favoured with your future correspondence.—Farewell, hoping the hydra of tyranny and imposition shall soon fall under the guillotine of truth and reason.—Your's, with all due respect, &c.

"Mr. Harding, No. 9, or 19,  
Piccadilly, London."

Mr. Garraw.—This, which was found in Hardy's possession, purports to be an answer to the last.

"1st May, 1794.

"Citizen;—It is with pleasure the London Corresponding Society hear that a society on a similar plan, and with the same patriotic objects in view, is likely to be established at Newcastle-upon-Tyne. If ever a crisis arrived that required the exertions of the people to stop the torrent of corruption, infamy, and despotism that seems likely to overwhelm them, it is the present. In God's name, then; let us use these exertions. We are called upon by every thing that is dear to us, as men and as Christians. The cause of truth and liberty must finally be omnipotent; therefore doubt not that the glorious reign of liberty and equality will ere long be established; and modern governments, with every appendage of wickedness and corruption, will flee, in time, from their genial influence, as beasts of prey to their dens of rapine and darkness from the rising sun. The London Corresponding Society have beheld with indignation the rapid advances of despotism in Britain, and are ready cordially to unite with every other society in the three kingdoms, who have for their object a full and effectual representation of the people; they therefore have deputed six of their members to meet six of the members of the Society for Constitutional Information, to form a committee of correspondence and co-operation. This committee meets regularly twice a week, at No. 2, Beaufort Buildings, Strand, where any member delegated by your society will meet with every information required. We inclose you a few of our resolutions entered into at our general meeting, on the 14th of April, which will be sufficiently explanatory of our sentiments and views. We heartily unite with you in wishing that the hydra of tyranny and imposition may soon fall under the guillotine of truth and reason."

"Bristol, 24th April 1794

"Fellow Citizen  
from our last  
fellow  
i

to address the public, and assured you of our unalterable perseverance in the glorious cause of freedom.—This perseverance, however, and these exertions of an individual society, can but little avail, if the societies in the different parts of the kingdom are in themselves dissipated, or do not aid and assist each other, agreeable to the principles of philanthropy and fraternity which they so warmly profess. Under this idea, we conceive ourselves treated with a degree of incivism, by your society not answering our last letters; the reasons may be good.—At present, we are candid enough to confess that the circumstance does not appear to us in the most favourable point of view. Our address, of which we send you a few copies, we find to have a good effect, and is likely to beget us the assistance of many friends, while our enemies acknowledge there is something very fair and reasonable in the production. This is an absolute victory; and we have reason to congratulate ourselves on the prospect of success it opens to us. With a mixture of pain and pleasure, we saw an account of your last general meeting. We lament that the strong hand of despotism should so often interfere to prevent the assertion of the rights of the people, while we rejoice in your manly constitutional perseverance, and applaud and approve your resolution of forming another general convention. Our increasing numbers give us every reasonable hope of soon being able more effectually to co-operate with you; while, for the reasons formerly stated, we cannot yet make a positive promise on that head. We hope for an immediate answer. Favour us with your opinion of our address, and transmit a sketch of your plan respecting the general convention.

“By order of the committee of delegates appointed by the Bristol Constitutional Society.”

[No signature.]

“Thomas Hardy, No. 9, Piccadilly, London.”

“Normich Societies, 29th April, 1794.

“Citizen Hardy;—It is with great satisfaction we view the manly conduct of you and your colleagues, especially when surrounded, as you are, by a domineering aristocracy, who, notwithstanding their great bluster, are but chicken-hearted: witness our Norfolk Quakers, who, after being completely foiled at the county meeting, were determined to subscribe to support an armed aristocracy. But may tell it not in the metropolis, that a noble marquis subscribed no more than 200*l.* and another high-pensioned lord but 100*l.*; an alderman and leader, and very fierce for church and king, the enormous sum of 20*l.*; these are the men who are ready to spend their lives and fortunes.—But enough of such privileged beings. We should be glad to know whether the Friends of the People consent to a subscription, and whether they will take an active part.

“I must be except of a few of our bills. We

should esteem it a favour that you would send us a few of your late Declarations.

“P. S.—Many of our friends are fully convinced of the necessity, legality and rationality of a convention; but, query, whether the time be expedient?”

“JAMES BAGG, chairman.

“I. SAINT, secretary.”

“Hereford, May 12th, 1794.

“Sir;—I have repeatedly seen your name in the newspapers, as secretary to a certain institution called the London Corresponding Society. But from my inquiries in the country, I have not yet been able to acquire a knowledge of the rules of the society, nor the precise purpose for which it has been established. If their design is to increase the knowledge of the community, I really think it laudable and seasonable, and should be glad to avail myself of their information. I have therefore troubled you with this letter, requesting some account of the rules of the society, the object they have in view, and the means they pursue to obtain it. Any information of this sort would be extremely gratifying to, sir, your most humble servant,

“JOSEPH POWELL.

“Address to Joseph Powell, surveyor; to be left at the Sun Tavern, Hereford.

“Mr. Hardy, No. 9, Piccadilly, London.

“Post paid.”

“Fellow Citizen;—In answer to your letter dated the 12th ult. I am desired to inform you, the London Corresponding Society have in view not only the glorious design of increasing the knowledge of the community, but of redressing their grievances. This they hope to do by straining every nerve in union with other societies already established, and establishing, in every part of the kingdom, to procure universal suffrage and annual parliaments, as the only likely means to annihilate the present most abominable system of corruption, and to stop the rapid advances of despotism—a monster whose hideous features need only be exposed to render it an object of universal terror and detestation, but whose gaudy trappings have too long dazzled the eyes of our countrymen.

“To expose vice, to paint virtue in its true colours, to acquaint our fellow citizens with their dearest rights, the rights of man; and, by a brotherly union, give them an opportunity of demanding those rights, are the means we use; and we doubt not, but in exerting those means, we are doing our duty to God and our country; for, as Pope says,

“Jove fix it certain, that whatever day

“Made man a slave, took half his worth away.”

“We invite you, and your fellow citizens, to join with us in the same glorious cause. From us you may depend on every information and assistance; the mode of obtaining which, you will shortly learn by a circular letter.

“T. HARDY, secretary.



"Herewith you receive a few of the proceedings of our last general meeting."

(Indr.sed) "Copy of answer to Hereford."

Mr. *Garrow*.—I now propose to read a letter from a society at Sheffield, addressed to the prisoner; it does not appear that any part of it is in his hand-writing; it is found in the possession of Thelwall, who, as your lordship recollects, appears to have been in some instances an agent of that London Corresponding Society of which Hardy was secretary.

Mr. *Erskine*. The principle upon which the last piece of evidence was admitted was very distinctly stated by your lordships, that it might be evidence to show a conspiracy so called, yet would not go to affect the prisoner, unless it could be brought home to him. The only remark I make upon this is, how does it appear to be the same Sheffield Society with which this society was in correspondence? Is it written in the same hand-writing? Does it profess to be written by the same person who before corresponded with the prisoner?

Mr. *Garrow*. We do not state this is the Sheffield society with which they corresponded; I state it to be from a society at Sheffield, with which town they were in correspondence, signed by a person purporting to be a secretary; but if my friends object to it, we will not trouble them to argue it.

Mr. *Erskine*.—I certainly do object to it.

Lord Chief Justice *Eyre*.—I think this letter is in a different situation from the other. It is a letter purporting to come from one of these societies; it is addressed to the prisoner, and it is found in the hands of a person affected by the evidence, at least to involve him in this conspiracy.

Mr. *William Tins* sworn.—Examined by Mr. *Garrow*.

Are you one of his majesty's messengers?

—Yes.

Did you seize any papers at the house of Thelwall?—Some few that were on his person.

You put your name on those that you seized?—I did.

Is this one you found upon Thelwall?—It is.

[The letter read.]

"*Sheffield, May 11th, 1794.*

"Friend and Fellow Citizen;—The friends of peace and reform in Halifax, having held a general public meeting in the open air, on Monday, April 21st, 1794, at which were many friends from Leeds, Wakefield, Huddersfield, Bradford, and the adjacent neighbourhood, the friends of freedom after the meeting agreed to hold a general meeting of delegates at Bristol, in order to consider on the measures to be adopted by them, preparatory to a general convention, after which our worthy friend, citizen ———, of Halifax, being ordered to Sheffield, to get the proceedings of the meeting printed, and consult

with us upon the subject, they were advised by us to defer at present the meeting of delegates until further information from you on that subject; I was, therefore, ordered at our last committee meeting to write to you, requesting the favour of as early intelligence as possible on that important business. We are not in the least intimidated in Sheffield, as we can call and hold a public meeting whenever circumstances render the same necessary: besides in the house where I reside, we have a large commodious room, where the society can peaceably meet in rotation.—By order of the committee,

"WILLIAM BROOMHEAD, secretary."

Mr. *William Scott* again called.

Mr. *Garrow*.—Was this paper found in the possession of Mr. Skirving?—Yes.

[The paper read.]

"The delegation from Glasgow moves, that the convention take into their consideration, the nature and extent of a resolution adopted by their constituents, and by most of the other societies in Scotland, and afterwards ratified and approved of at the general convention held at Edinburgh, in December, 1793; the import of which was, that if any member of their society, associated for the purpose of obtaining a parliamentary reform, should, while in the legal prosecution of that object be oppressed or persecuted by the arm of power, they should not only meet with the assistance of the society to which they belong, but also with the united efforts of all their brethren in Scotland.

"Since the above period, however, we are sorry to say, several of our members have been persecuted, and that in a most wanton manner; and the above resolution (which if duly put in force, would, we humbly apprehend, have the happy effect of emboldening those who have already come forward, and of encouraging others who have not yet taken any active part to unite their efforts in the general cause) has never yet been attended to.

"We therefore humbly move, that the convention take into consideration the above particulars, and consider what measures may be most conducive towards the performance of the obligation we lie under, in consequence of that resolution, and thereby show to the world, that we are not unmindful of those who have already suffered, or may in future suffer, in their country's cause.—By order of the delegation,

JOHN GARTLY.

"Edinburgh October 30th, 1793."

Mr. *Edward Lawson* again called.

Mr. *Garrow*.—Where did you find this paper?—In Mr. Hardy's house.

[The paper read.]

"Sir;—Your letter of the 14th instant addressed to the chairman of the Society for Constitutional Information, was read at the

last meeting, and I have the pleasure to send you their resolution on the same. I have the honour to be, sir, your most obedient servant,

"D. ADAMS,

"Secretary to the  
"Society for Constitutional Information.  
4, Took's Court,  
June 19, 1792."

"At a meeting held Friday, June 15th, 1792.

"Resolved;—That the secretary be desired to inform the secretary of the London Corresponding Society, that this society receive their proposal with pleasure, and are willing to admit such six of the members whom they shall nominate, to be associated members of this society.

"By direction of the society you will receive 200 printed Resolves on the late proclamation.

"London Constitutional Society."

Addressed "Mr. Hardy."

Indorsed "Received June 19, 1792, with 200 copies of their Resolutions on the proclamation.

"And acquainting us they would admit six of our members."

[A paper shown to Alexander Grant, which he said he believed to be the Prisoner's handwriting.]

Mr. Garrow.—This seems the beginning of the connexion of the two societies.

[The letter read.]

"Sir;—In the name of the London Corresponding Society, I have to return thanks to the Society for Constitutional Information, for their present of 200 copies of their Resolutions, respecting the king's proclamation; as also for the 200 copies of Mr. Paine's Letter, &c. Likewise Mr. Paine's Letter to Mr. secretary Dundas; by care, in the distribution of them, those 600 papers shall be seen by as many thousand persons.

"We find ourselves highly favoured by your readiness, to admit six of our members among you. I am directed to forward to you the following six names, as the persons chosen by our society for that honourable purpose; our sense of the favour so conferred, will be best expressed by their close attendance at your instructive meetings, and constant endeavours to forward the so beneficial and so much wanted reform of parliamentary representation. I am, sir, with great respect, your very humble servant,

"THOMAS HARDY, secretary.

"July 6th, 1792.

"Mr. D. Adams."

"The six persons chosen were Mr. Hardy, Mr. Margarot, Mr. Richter, Mr. Littlejohn, Mr. Grant, and Mr. Gow."

Mr. Daniel Adams sworn.—Examined by Mr. Bower.

"I think you were some time secretary to the Constitutional Society?—Yes.

Were these the books in which their proceedings for some time were entered?—Yes.

Are the entries of the proceedings of the society regularly made in these books?—Yes.

[The following proceedings were read from one of the books.]

At a meeting held at the Crown and Anchor tavern, Strand, Friday, July 13th, 1792.

"PRESENT,

"Mr. John Martin in the chair.

"Mr. Tooke, Mr. Frost, Mr. Bonney, Mr. Paine, Dr. Maxwell, Mr. Hull, Mr. Sharpe, Mr. Pearson, Dr. Kentish, Mr. Sturch, Mr. Constable, Mr. G. Williams, Mr. Rimgington, captain Harwood, Mr. Bush, Mr. Bush, junior, Mr. Choppin, Mr. Bakewell, Mr. Hind, lord Sempill, Mr. Jennings, Mr. Balmanno, Mr. Fitzgerald, Mr. Adams, Mr. J. Williams, Mr. Chatfield.

"The following six gentlemen recommended by the London Corresponding Society, to be associated members of this society, were unanimously elected."

"Mr. Hardy, Mr. Margarot, Mr. Richter, Mr. Littlejohn, Mr. Grant, and Mr. Gow.

"At a meeting of the society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, July 20th, 1792.

"PRESENT,

"Mr. Frost in the chair,

"Mr. J. H. Tooke, lord Sempill, Dr. Edwards, Mr. Bonney, Mr. W. Sharpe, Mr. J. Williams, Mr. G. Williams, Mr. Choppin, Mr. Bailey, col. Keating, Mr. Bush, Mr. Sturch, Mr. Balmanno, Mr. Aspinall, Mr. Bush, jun. Mr. Gow, Mr. Hardy, Mr. Grant, Mr. Moore, Mr. John Martin, capt. Perry, rev. Dr. Towers.

"The committee appointed to take into consideration Mr. Paine's letter, reported that they think it will not be advisable for the society to undertake the trust.

"Resolved, That the said committee be now dissolved.

"Resolved, That a committee be appointed to consider of the manner in which the society shall communicate to Mr. Paine their determination concerning his offer of 1,000*l.*, in trust, to be applied as the society shall think proper.

"Resolved, That the said committee consist of Mr. Bush, rev. Dr. Towers, capt. Perry, Mr. J. H. Tooke, lord Sempill, Mr. M. Bush, Mr. W. Sharpe, Mr. Choppin, and Mr. Balmanno; and that the said committee meet at six o'clock, at the Crown and Anchor tavern."

Mr. Bower.—These books were among the papers that were seized at your house by the messenger?—Yes.

Were these books open to the inspection of



the society when the society were sitting?—They were on the table.

Open to the inspection of the members?—If they thought proper.

Were they ever read?—The minutes of the former meeting were generally read the first thing in the proceedings of the next.

[The following entry was read from one of the books of the Society for Constitutional Information.]

“At a meeting of the society, held at the Crown and Anchor tavern, Strand, Friday, July 27, 1792,

## PRESENT

Mr. Choppin in the chair,

“Mr. Hull, Mr. Bush, Mr. M. Bush, Mr. Sturch, Mr. Williams, Mr. G. Williams, capt. Harwood, Mr. Harvey, Mr. Gow, capt. Perry, Mr. Sinclair, Mr. Geddes, Mr. Aspinall, Mr. Gerard, Mr. Littlejohn, Mr. Rutt, Mr. Sutton, Mr. Moore, Mr. John Martin, lord Sempill.

“The committee appointed to take Mr. Paine's letter of the 4th instant into consideration, and to consider of the manner in which the society shall communicate to Mr. Paine their determination concerning his offer of 1,000*l.* in trust, to be applied as this society shall think proper, reported that they had met on Monday last, when they came to the following resolutions:—

“That it is the opinion of this committee, the offer of Mr. Paine be respectfully declined.

“Resolved, That the following letter be recommended by this committee, to be transmitted by the society to Mr. Paine:

“Sir:—I am directed by the Society for Constitutional Information, to return you their sincere thanks for the honour you have done them, in requesting them to become trustees of the sum of one thousand pounds, which has been produced by the profits of the sale of the Rights of Man, and leaving it to them to apply it to such purposes as they should judge proper. They have a just sense of the confidence that you have placed in them, and of the generosity and disinterestedness of your offer, but they cannot think that it is an offer they should accept. The eminent services which have been rendered to the public by your invaluable writings, have never yet met with an adequate reward, and they think that it would be an extreme injustice to deprive you of any benefits which might be derived from their sale; for it is but reasonable, that those who are possessed of literary talents, and who employ them to promote the happiness of the community to which they belong, and to mankind at large, should receive those advantages which may be obtained by their writings, and which may be enjoyed with integrity and honour. But though the society decline the offer which you have been pleased to make them, they

cannot do it, without, at the same time, congratulating you upon the consciousness which you must possess of having contributed, by your writings, to the illumination of so many millions of human beings, in this country, America, and in other nations, on subjects of the highest importance to the universal freedom and happiness of mankind. I am, with great esteem, sir, your most obedient servant,

“D. A. secretary.

“To Mr. Thomas Paine.”

“Resolved, That the said letter be signed by the secretary, and sent to Mr. Paine.

“Resolved, That the secretary wait on Mr. Paine, to be informed by him, whether it be agreeable to him, that the two resolutions of the committee appointed to take Mr. Paine's letter of the 4th of July into consideration, together with the answer of the society, be published in the papers, and that if Mr. Paine does not disapprove its publication, that it be forthwith published in different papers.

“Adjourned to the last Friday in September.”

Mr. Bower.—I shall now call the bookseller who published Mr. Paine's book.

Jeremiah Samuel Jordan sworn.—Examined by Mr. Bower.

Do you know Mr. Thomas Paine?—Yes.

Do you know his hand-writing?—I think I do.

Look at that letter; do you believe that to be his hand-writing?—To the best of my recollection this is like his writing; I never saw him write.

Have you corresponded with him?—I have received notes from him.

And answered them?—No.

How do you know the notes came from him? has he afterwards told you that they were his notes?—Because I delivered things according to his order, therefore supposed them to come from him; but I never saw him write, so as to take particular notice.

Have you ever talked with him about those notes, or of things that were sent in consequence?—I do not know that I have.

Did you publish, at any time, for Mr. Paine, a work, intitled, “Rights of Man?”—I did.

Look at this, and tell us whether that is the book that you published?—This is one like them; whether this is one of the same books I cannot tell; here is my name to it, and it is like that which I published.

Do you believe it to be one of the books that you published?—I believe it is one of the books that I might publish.

Mr. Erskine.—Do you swear to that book, that it is one you published?—I cannot swear that it is; there were a great number sold that were not sold by me.

Mr. Bower.—Look at it, and see whether it is one of the books you published?—It is one of the same as I published for Mr. Paine.

Is it like the book you

Mr. *Erskine*.—Is that the book or not? If that is not the book I object to it.

Lord Chief Justice *Eyre*.—Who printed it?

—Mr. Chapman printed part of it. Of the first part of the Rights of Man, Mr. Chapman\* printed the whole. This is the second part.

Mr. *Bower*.—I thought you had been the printer?—No, I am only the publisher.

Mr. *White*.—The man is dead that bought it, and I must call a witness to prove his hand-writing. That was proved in a court of justice.

Mr. *Bower*.—I have the record of a conviction, in which Paine was convicted: this witness was examined upon his oath there, and I can prove what he swore then, which I submit will be evidence.

Mr. *Erskine*.—That was the king against Mr. Paine; this is the king against Mr. Hardy.

Mr. *Garrow*.—I think I am entitled, at present, to read this as evidence to go to the jury; I know it is open to the other side to show that this is not the Rights of Man recognized by this society.—We can carry it farther.

Lord Chief Justice *Eyre*.—The rule of evidence requires that you should carry it farther.

Mr. *Bower*.—Do you know how far Mr. Chapman printed?—I believe as far as letter H.

Mr. *Bower*.—I will now read the proceedings of the Constitutional Society, at their next meeting, on the 28th of September.

[The proceedings were read.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 28th of September, 1793,

"PRESENT,

"Mr. William Sharp in the chair;

"Mr. J. H. Tooke, Mr. Symonds, Mr. Walsh, Mr. Bonney, Mr. Merry, Mr. Jennings, Mr. John Martin, Mr. Williams, Mr. Sturch, Mr. Moore, captain Perry, Mr. Rickman, Mr. Geddes, Mr. Hardy, Mr. Gow, Mr. Margarot, Mr. Sinclair, Mr. Balmanno.

"Read the following letter from the secretary of the London Corresponding Society:—

"To D. Adams, secretary to the Society for Constitutional Information.

"Sir;—The London Corresponding Society having taken the resolution of transmitting to the French National Convention, an address, signed by all the members, or by the different delegates (each stating for how many members he signs), to assure that suffering nation, that we sympathise with them in their misfortunes; that we view their ex-

ertions with admiration; that we wish to give them all such countenance and support as individuals, unsupported and oppressed themselves, can afford; and that should those in power here—dare (in violation of the nation's pledged faith of neutrality, and in opposition to the well-known sentiments of the people at large) to join the German band of despots, united against liberty, we disclaim all concurrence therein; and will, to a man, exert every justifiable means for counteracting their machinations against the freedom and happiness of mankind.

"I am ordered by the committee to acquaint the Society for Constitutional Information therewith, in order to be favoured with their opinion thereon, and in hopes that, if they approve the idea, and recommend its adoption to the different societies, the publication of such a respectable number of real names will greatly check the hostile measures which might otherwise be put in execution. I am, with great respect, dear sir, your very humble servant.

(Signed) "THOMAS HARDY, secretary.

"London, Sept. 21, 1793,—No. 9, Piccadilly, near the top of the Haymarket."

"Resolved, that the secretary express the thanks of the society to the London Corresponding Society for their communication, and acquaint them this society do very highly approve of their intention.

"Ordered, That the said letter be read at the next meeting, for the purpose of considering of publishing the same.

"Read a letter from the London Corresponding Society, enclosing a printed address to the inhabitants of Great Britain."

Mr. *Bower*.—There is in the meeting of the 5th, a confirmation of these minutes.

Mr. *Garrow*.—I shall now produce a copy of one of the cheap editions of Paine's Rights of Man, and Mr. Paine's Letter to the People of France, both found in possession of the prisoner.

Mr. *Edward Lausun* again called.

Mr. *Garrow*.—Is that one of the papers you found at the prisoner's house?—Yes; there is my name to it.

Did you find the other there?—Yes,

Mr. *Erskine*.—Is your lordship of opinion that any printed book which is found in the possession of the prisoner is to be read.

Lord Chief Justice *Eyre*.—It is evidence to be left to the jury.

Mr. *Garrow*.—We do not interrupt the course of proceedings by reading the passages out of Paine's book; at present we will go on with other evidence.

Lord Chief Justice *Eyre*.—When are we to take up that? If we are ever to have it, we may as well have it now.

Mr. *Garrow*.—Then we will read Mr. Paine's Letter to the people of France.

\* See his evidence on the trial of Thomas Hardy, Vol. 22, p. 400.



[It was read.]

Letter of Thomas Paine, to the People of France. Published and distributed gratis by the London Corresponding Society.

"Paris, September 25.

"(First Year of the Republic.)

"Fellow Citizens;—I receive, with affectionate gratitude, the honour which the late National Assembly has conferred upon me, by adopting me a citizen of France; and the additional honour of being elected by my fellow-citizens a member of the National Convention. Happily impressed, as I am, by those testimonies of respect shown towards me as an individual, I feel my felicity increased by seeing the barrier broken down that divided patriotism by spots of earth, and limited citizenship to the soil, like vegetation.

"Had those honours been conferred in an hour of national tranquillity, they would have afforded no other means of showing my affection, than to have accepted and enjoyed them; but they come accompanied with circumstances that give me the honourable opportunity of commencing my citizenship in the stormy hour of difficulties. I come not to enjoy repose. Convinced that the cause of France is the cause of all mankind, and that as liberty cannot be purchased by a wish, I gladly share with you the dangers and honours necessary to success.

"I am well aware that the moment of any great change, such as that accomplished on the 10th of August, is unavoidably the moment of terror and confusion. The mind, highly agitated by hope, suspicion, and apprehension, continues without rest till the change be accomplished. But let us now look calmly and confidently forward, and success is certain. It is no longer the paltry cause of kings, or of this, or of that individual, that calls France and her armies into action. It is the great cause of ALL. It is the establishment of a new era, that shall blot despotism from the earth, and fix, on the lasting principles of peace and citizenship, the great republic of man.

"It has been my fate to have borne a share in the commencement and complete establishment of one revolution (I mean the revolution of America). The success and events of that revolution are encouraging to us. The prosperity and happiness that have since flowed to that country, have amply rewarded her for all the hardships she endured, and for all the dangers she encountered.

"The principles on which that revolution began, have extended themselves to Europe; and an over-ruling Providence is regenerating the Old World by the principles of the New. The distance of America from all the other parts of the globe, did not admit of her carrying those principles beyond her own situation. It is to the peculiar honour of France, that she now raises the standard of liberty for all

nations; and in fighting her own battles, contends for the rights of all mankind.

"The same spirit of fortitude that insured success to America, will insure it to France, for it is impossible to conquer a nation determined to be free! The military circumstances that now unite themselves to France, are such as the despots of the earth know nothing of, and can form no calculation upon. They know not what it is to fight against a nation. They have only been accustomed to make war upon each other, and they know from system and practice, how to calculate the probable success of despot against despot; and here their knowledge and their experience ends.

"But in a contest like the present, a new and boundless variety of circumstances arises, that deranges all such customary calculations. When a whole nation acts as an army, the despot knows not the extent of the power against which he contends. New armies rise against him with the necessity of the moment. It is then that the difficulties of an invading enemy multiply, as in the former case they diminished; and he finds them at their height when he expected them to end.

"The only war that has any similarity of circumstances with the present, is the late revolution-war in America. On her part, as it now is in France, it was a war of the whole nation.—There it was that the enemy, by beginning to conquer, put himself in a condition of being conquered. His first victories prepared him for defeat. He advanced till he could not retreat, and found himself in the midst of a nation of armies.

"Were it now to be proposed to the Austrians and Prussians to escort them into the middle of France, and there leave them to make the most of such a situation, they would see too much into the danger of it to accept the offer, and the same dangers would attend them could they arrive there by any other means. Where then is the military policy of their attempting to obtain by force, that which they would refuse by choice? But to reason with despots is throwing reason away. The best of arguments is a vigorous preparation.

"Man is ever a stranger to the ways by which Providence regulates the order of things. The interference of foreign despots may serve to introduce into their own enslaved countries the principles they come to oppose. Liberty and equality are blessings too great to be the inheritance of France alone. It is honour to her to be their first champion; and she may now say to her enemies, with a mighty voice, 'O! ye Austrians, ye Prussians! ye who now turn your bayonets against us; it is for all Europe; it is for all mankind, and not for France alone, that she raises the standard of Liberty and Equality.'

"The public cause has hitherto suffered from the contradictions contained in the constitution of the former Constituent Assembly. Those contradictions have served to divide

the opinions of individuals at home, and to obscure the great principles of the revolution in other countries. But when those contradictions shall be removed, and the constitution be made conformable to the declaration of rights; when the bagatelles of monarchy, royalty, regency, and hereditary succession, shall be exposed, with all their absurdities, a new ray of light will be thrown over the world, and the revolution will derive new strength by being universally understood.

"The scene that now opens itself to France extends far beyond the boundaries of her own dominions. Every nation is becoming her colleague, and every court is become her enemy. It is now the cause of all nations against the cause of all courts. The terror that despotism felt, clandestinely begot a confederation of despots; and their attack upon France was produced by their fears at home.

"In entering on this great scene, greater than any nation has yet been called to act in, let us say to the agitated mind, be calm. Let us punish by instructing, rather than by revenge. Let us begin the new era by a greatness of friendship, and hail the approach of union and success. Your fellow citizen,

"THOMAS PAINE."

*Thomas Chapman sworn.—Examined by Mr. Garrow.*

What are you by business?—A bookseller.

Were you acquainted with Mr. Thomas Paine?—I was.

Did you at any time print any book for him?—I did.

What was it?—A work intituled *Rights of Man*.

Did you print one or two parts of that work?—I printed the first part and part of the second.

Was it at the earlier part of the second part as you call it, or the latter part?—The earlier part.

You did not finish it?—I did not.

Look at these two books, and tell me whether you believe these to be copies printed by you?—I printed the first part entirely.

How far did you proceed in printing the second part?—I think I printed as far as letter K, that is, I finished what we call the letter or signature of sheet I, which includes the 128th page; the larger edition, I had the copy of almost the whole of the remaining part, and my people had composed it, or set it up in the type, but I did not conclude it.

What did you do with that part you did not finish?—Returned it into the hands of Mr. Paine by a servant of mine.

After the book was completed, did you ever converse with Mr. Paine about it?—I do not think I saw Mr. Paine upon the business after the work was quite finished.

[The following passages were read from the first part of the "*Rights of Man*."] (Page 57, 8vo. and page 24, 12mo editions.)

VOL. XXIV.

—"Can then Mr. Burke produce the English constitution? If he cannot, we may fairly conclude, that though it has been so much talked about, no such thing as a constitution exists, or ever did exist, and consequently that the people have yet a constitution to form."

(Page 59, 8vo. and page 25, 12mo. editions.)—"A government on the principles on which constitutional governments arising out of society are established, cannot have the right of altering itself. If it had, it would be arbitrary. It might make itself what it pleased; and wherever such a right is set up, it shows there is no constitution. The act by which the English parliament empowered itself to sit seven years, shows there is no constitution in England. It might, by the same self-authority, have sat any greater number of years, or for life. The Bill which the present Mr. Pitt brought into parliament some years ago, to reform parliament, was on the same erroneous principle. The right of reform is in the nation in its original character, and the constitutional method would be by a general convention elected for the purpose. There is, moreover, a paradox in the idea of vitiated bodies reforming themselves."

(Page 63, 8vo. and 27, 12mo. editions.)—"Much is to be learned from the French constitution. Conquest and tyranny transplanted themselves with William the Conqueror from Normandy into England, and the country is yet disfigured with the marks. May then the example of all France contribute to regenerate the freedom which a province of it destroyed!"

(Page 161, 8vo. and page 74, 12mo. editions.)—"The two modes of government which prevail in the world, are, first, government by election and representation: secondly, government by hereditary succession. The former is generally known by the name of republic; the latter by that of monarchy and aristocracy.

"Those two distinct and opposite forms, erect themselves on the two distinct and opposite bases of reason and ignorance.—As the exercise of government requires talents and abilities, and as talents and abilities cannot have hereditary descent, it is evident that hereditary succession requires a belief from man, to which his reason cannot subscribe, and which can only be established upon his ignorance; and the more ignorant any country is, the better it is fitted for this species of government."

(Page 165, 8vo. and page 76, 12mo editions.)—"From the revolutions of America and France, and the symptoms that have appeared in other countries, it is evident that the opinion of the world is changed with respect to systems of government, and that revolutions are not within the compass of political calculations. The progress of time and circumstance, which men assign to the accomplishment of great changes, is too



mechanical to measure the force of the mind, and the rapidity of reflection, by which revolutions are generated: all the old governments have received a shock from those that already appear, and which were once more improbable, and are a greater subject of wonder, than a general revolution in Europe would be now.

"When we survey the wretched condition of man under the monarchical and hereditary systems of government, dragged from his home by one power, or driven by another, and impoverished by taxes more than by enemies, it becomes evident that those systems are bad, and that a general revolution in the principle and construction of governments is necessary.

"What is government more than the management of the affairs of a nation? It is not, and from its nature cannot be, the property of any particular man or family, but of the whole community, at whose expense it is supported; and though by force or contrivance it has been usurped into an inheritance, the usurpation cannot alter the right of things. Sovereignty, as a matter of right, appertains to the nation only, and not to any individual; and a nation has at all times an inherent indefeasible right to abolish any form of government it finds inconvenient, and establish such as accords with its interest, disposition, and happiness. The romantic and barbarous distinction of men into kings and subjects, though it may suit the condition of courtiers, cannot that of citizens; and is exploded by the principle upon which governments are now founded. Every citizen is a member of the sovereignty, and, as such, can acknowledge no personal subjection; and his obedience can be only to the laws.

"When men think of what government is, they must necessarily suppose it to possess a knowledge of all the objects and matters upon which its authority is to be exercised. In this view of government, the republican system, as established by America and France, operates to embrace the whole of a nation; and the knowledge necessary to the interest of all the parts, is to be found in the centre, which the parts by representation form: but the old governments are on a construction that excludes knowledge as well as happiness; government by monks, who know nothing of the world beyond the walls of a convent, is as consistent as government by kings.

"What were formerly called revolutions, were little more than a change of persons, or an alteration of local circumstances. They rose and fell like things of course, and had nothing in their existence or their fate that could influence beyond the spot that produced them. But what we now see in the world, from the revolutions of America and France, is a renovation of the natural order of things, a system of principles as universal as truth and the existence of man, and combining moral with political happiness and national prosperity.

"1. Men are born and always continue free

and equal in respect of their rights. Civil distinctions, therefore, can be founded only on public utility.

"2. The end of all political associations is the preservation of the natural and imprescriptible rights of man; and these rights are liberty, property, security, and resistance of oppression.

"3. The nation is essentially the source of all sovereignty; nor can any individual, or any body of men, be entitled to any authority which is not expressly derived from it."

(Page 171, 8vo. and page 78, 12mo. editions.)—"As it is not difficult to perceive, from the enlightened state of mankind, that hereditary governments are verging to their decline, and that revolutions on the broad basis of national sovereignty, and government by representation, are making their way in Europe, it would be an act of wisdom to anticipate their approach, and produce revolutions by reason and accommodation, rather than commit them to the issue of convulsions.

"From what we now see, nothing of reform in the political world ought to be held improbable. It is an age of revolutions, in which every thing may be looked for. The intrigue of courts, by which the system of war is kept up, may provoke a confederation of nations to abolish it: and an European congress, to patronize the progress of free government, and promote the civilization of nations with each other, is an event nearer in probability, than once were the revolutions and alliance of France and America."

[The following passages were read from the Second Part of the "Rights of Man."]

(Page 21, 8vo. edition.)—"All hereditary government is, in its nature, tyranny.—An heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds."

(Page 27, 8vo. edition.)—"How irrational then is the hereditary system, which establishes channels of power, in company with which wisdom refuses to flow.—By continuing this absurdity, man is perpetually in contradiction with himself; he accepts, for a king, or a chief magistrate, or a legislator, a person whom he would not elect for a constable."

(Page 47, 8vo. edition.)—"This convention met at Philadelphia, in May, 1787, of which General Washington was elected president. He was not, at that time, connected with any of the state governments, or with congress. He delivered up his commission when the war ended, and since then had lived a private citizen.

"The convention went deeply into all the subjects; and having, after a variety of debate and investigation, as— upon the  
it—

"For this purpose they did not, like a cabal of courtiers, send for a Dutch stadtholder, or a German elector; but they referred the whole matter to the sense and interest of the country."

"They first directed, that the proposed constitution should be published. Secondly, that each state should elect a convention, expressly for the purpose of taking it into consideration, and of ratifying or rejecting it; and that as soon as the approbation and ratification of any nine states should be given, that those states should proceed to the election of their proportion of members to the new federal government, and that the operation of it should then begin, and the former federal government cease."

(Page 52, 8vo. edition.)—"The history of the Edwards and the Henries, and up to the commencement of the Stuarts, exhibits as many instances of tyranny as could be acted within the limits to which the nation had restricted it. The Stuarts endeavoured to pass those limits, and their fate is well known. In all those instances, we see nothing of a constitution, but only of restrictions, or assumed power."

"After this another William, descended from the same stock, and claiming from the same origin, gained possession; and, of the two evils, James and William, the nation preferred what it thought the least; since, from circumstances, it must take one. The act, called the Bill of Rights, comes here into view. What is it but a bargain, which the parts of the government made with each other, to divide powers, profits, and privileges: you shall have so much, and I will have the rest; and, with respect to the nation, it said, for your share, *YOU shall have the right of petitioning*. This being the case, the Bill of Rights is, more properly, a bill of wrongs, and of insult. As to what is called the convention parliament, it was a thing that made itself, and then made the authority by which it acted. A few persons got together, and called themselves by that name. Several of them had never been elected, and none of them for the purpose."

"From the time of William a species of government arose, issuing out of this coalition Bill of Rights; and more so, since the corruption introduced at the Hanover succession, by the agency of Walpole; that can be described by no other name than a despotic legislation. Though the parts may embarrass each other, the whole has no bounds; and the only right it acknowledges, out of itself, is the right of petitioning. Where then is the constitution, either that gives, or that restrains power?"

"It is not because a part of the government is elective, that makes it less a despotism, if the persons so elected possess afterward, as a *rent*, unlimited powers. Election, in *becomes separated from representa-*  
*candidates are candidates for*

*that any nation, reason-*

ing on its own rights, would have thought of calling those things a *constitution*, if the cry of constitution had not been set up by the government."

(Page 63, 8vo. edition—a note.)—"\* With respect to the two houses of which the English parliament is composed, they appear to be effectually influenced into one; and, as a legislature, to have no temper of its own. The minister, whoever he at any time may be, touches it as with an opium wand, and it sleeps obedience."

"But if we look at the distinct abilities of the two houses, the difference will appear so great, as to shew the inconsistency of placing power where there can be no certainty of the judgment to use it. Wretched as the state of representation is in England, it is manhood compared with what is called the House of Lords; and so little is this nick-named house regarded, that the people scarcely inquire, at any time, what it is doing. It appears also to be most under influence, and the furthest removed from the general interest of the nation. In the debate on engaging in the Russian and Turkish war, the majority in the House of Peers, in favour of it, was upwards of ninety; when in the other house, which is more than double its numbers, the majority was sixty-three."

(Page 65, 8vo. edition.)—"But in whatever manner the separate parts of a constitution may be arranged, there is *one* general principle that distinguishes freedom from slavery, which is, that all *hereditary government over a people is to them a species of slavery, and representative government is freedom*."

(Page 107, 8vo. edition.)—"Having thus glanced at some of the defects of the two houses of parliament, I proceed to what is called the crown, upon which I shall be very concise."

"It signifies a nominal office of a million sterling a year, the business of which consists in receiving the money.—Whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every ministry acts upon the same idea that Mr. Burke writes; namely, that the people must be hood-winked, and held in superstitious ignorance by some hughbear or other; and what is called the crown answers this purpose, and therefore it answers all the purposes to be expected from it. This is more than can be said of the other two branches."

Mr. Erskine.—I desire the preface to be read.

Mr. Attorney General.—Read the dedication first, and then the preface.

Mr. Erskine.—You may read the whole book, if you please.

[The Dedication and Preface read.]

"To M. De La Fayette.

"After an acquaintance of nearly fifteen years, in difficult situations in America, and various consultations in Europe, I feel a plea



sure in presenting to you this small treatise, in gratitude for your services to my beloved America, and as a testimony of my esteem for the virtues, public and private, which I know you to possess.

"The only point upon which I could ever discover that we differed, was not as to principles of government, but as to time. For my own part, I think it equally as injurious to good principles to permit them to linger, as to push them on too fast. That which you suppose accomplishable in fourteen or fifteen years, I may believe practicable in a much shorter period. Mankind, as it appears to me, are always ripe enough to understand their true interest, provided it be presented clearly to their understanding, and that in a manner not to create suspicion by any thing like self-design, nor offend by assuming too much. Where we would wish to reform we must not reproach.

"When the American revolution was established, I felt a disposition to sit serenely down and enjoy the calm. It did not appear to me that any object could afterwards arise great enough to make me quit tranquillity, and feel as I had felt before. But when principle, and not place, is the energetic cause of action, a man, I find, is every where the same.

"I am now once more in the public world; and as I have not a right to contemplate on so many years of remaining life as you have, I am resolved to labour as fast as I can; and as I am anxious for your aid and your company, I wish you to hasten your principles and overtake me.

"If you make a campaign the ensuing spring, which it is most probable there will be no occasion for, I will come and join you. Should the campaign commence, I hope it will terminate in the extinction of German despotism, and in establishing the freedom of all Germany. When France shall be surrounded with revolutions, she will be in peace and safety, and her taxes, as well as those of Germany, will consequently become less. Your sincere, affectionate friend,

"THOMAS PAINE."

"London, Feb. 9, 1792."

#### "PREFACE.

"When I began the chapter intitled the 'Conclusion' in the former part of the *RIGHTS OF MAN*, published last year, it was my intention to have extended it to a greater length; but in casting the whole matter in my mind which I wished to add, I found that I must either make the work too bulky, or contract my plan too much. I therefore brought it to a close as soon as the subject would admit, and reserved what I had further to say to another opportunity.

"Several other reasons contributed to produce this determination. I wished to know the manner in which a work, written in a style of thinking and expression different to what had been customary in England, would

be received before I ventured farther. A great field was opening to the view of mankind by means of the French Revolution. Mr. Burke's outrageous opposition thereto brought the controversy into England. He attacked principles which he knew (from information) I would contest with him, because they are principles I believe to be good, and which I have contributed to establish, and conceive myself bound to defend. Had he not urged the controversy, I had most probably been a silent man.

"Another reason for deferring the remainder of the work was, that Mr. Burke promised in his first publication to renew the subject at another opportunity, and to make a comparison of what he called the English and French constitutions. I therefore held myself in reserve for him. He has published two works since, without doing this; which he certainly would not have omitted, had the comparison been in his favour.

"In his last work, '*His Appeal from the New to the Old Whigs*,' he has quoted about ten pages from the *Rights of Man*, and having given himself the trouble of doing this, says, he shall not attempt in the smallest degree to refute them, meaning the principles therein contained. I am enough acquainted with Mr. Burke to know, that he would if he could. But instead of contesting them, he immediately after consoles himself with saying, that 'he has done his part.'—He has not done his part—He has not performed his promise of a comparison of constitutions. He started the controversy, he gave the challenge, and has fled from it; and he is now a *case in point* with his own opinion, that, '*the age of chivalry is gone*!'

"The title, as well as the substance of his last work, his '*Appeal*,' is his condemnation. Principles must stand on their own merits, and if they are good they certainly will. To put them under the shelter of other men's authority, as Mr. Burke has done, serves to bring them into suspicion. Mr. Burke is not very fond of dividing his honours, but in this case he is artfully dividing the disgrace. But who are those to whom Mr. Burke has made his appeal? A set of childish thinkers and half-way politicians born in the last century; men who went no farther with any principle than as it suited their purpose as a party; the nation was always left out of the question; and this has been the character of every party from that day to this. The nation sees nothing in such works, or such politics worthy its attention. A little matter will move a party, but it must be something great that moves a nation.

"Though I see nothing in Mr. Burke's *Appeal* worth taking much notice of, there is, however, one expression upon which I shall offer a few remarks.—After quoting largely from the *Rights of Man*, and declining to contest the principles contained in that work, he says, '*This will most probably be done*

'(if such writings shall be thought to deserve any other refutation than that of criminal justice) by others who may think with Mr. Burke, and with the same zeal.'

"In the first place, it has not yet been done by any body. Not less, I believe, than eight or ten pamphlets intended as answers to the former part of the '*Rights of Man*' have been published by different persons, and not one of them, to my knowledge, has extended to a second edition, nor are even the titles of them so much as generally remembered. As I am averse to unnecessarily multiplying publications, I have answered none of them. And as I believe that a man may write himself out of reputation when nobody else can do it, I am careful to avoid that rock.

"But as I would decline unnecessary publications on the one hand, so would I avoid every thing that might appear like sullen pride on the other. If Mr. Burke, or any person on his side the question, will produce an answer to the '*Rights of Man*,' that shall extend to an half, or even to a fourth part of the number of copies to which the *Rights of Man* extended, I will reply to his work. But until this be done, I shall so far take the sense of the public for my guide (and the world knows I am not a flatterer) that what they do not think worth while to read, is not worth mine to answer. I suppose the number of copies to which the first part of the *Rights of Man* extended, taking England, Scotland, and Ireland, is not less than between forty and fifty thousand.

"I now come to remark on the remaining part of the quotation I have made from Mr. Burke.

"If," says he, 'such writings shall be thought to deserve any other refutation than that of criminal justice.'

"Pardoning the pun, it must be criminal justice indeed that should condemn a work as a substitute for not being able to refute it. The greatest condemnation that could be passed upon it would be a refutation. But in proceeding by the method Mr. Burke alludes to, the condemnation would, in the final event, pass upon the criminality of the process and not upon the work, and in this case, I had rather be the author, than be either the judge, or the jury, that should condemn it.

"But to come at once to the point. I have differed from some professional gentlemen on the subject of prosecutions, and I since find they are falling into my opinion, which I will here state as fully, but as concisely as I can.

"I will first put a case with respect to any law, and then compare it with a government, or with what in England is, or has been called a constitution.

"It would be an act of despotism, or what in England is called arbitrary power, to make a law to prohibit investigating the principles, good or bad, on which such a law, or any other is founded.

"If a law be bad, it is one thing to oppose

the practice of it, but it is quite a different thing to expose its errors, to reason on its defects, and to show cause why it should be repealed, or why another ought to be substituted in its place. I have always held it an opinion (making it also my practice) that it is better to obey a bad law, making use at the same time of every argument to show its errors and procure its repeal, than forcibly to violate it; because the precedent of breaking a bad law might weaken the force, and lead to a discretionary violation, of those which are good.

"The case is the same with respect to principles and forms of government, or to what are called constitutions and the parts of which they are composed.

"It is for the good of nations, and not for the emolument or aggrandizement of particular individuals, that government ought to be established, and that mankind are at the expence of supporting it. The defects of every government and constitution, both as to principle and form must, on a parity of reasoning, be as open to discussion as the defects of a law, and it is a duty which every man owes to society to point them out. When those defects, and the means of remedying them are generally seen by a nation, that nation will reform its government or its constitution in the one case, as the government repealed or reformed the law in the other. The operation of government is restricted to the making and the administering of laws; but it is to a nation that the right of forming or reforming, generating or regenerating constitutions and governments belong; and consequently those subjects, as subjects of investigation, are always before a country as a matter of right, and cannot, without invading the general rights of that country, be made subjects for prosecution. On this ground I will meet Mr. Burke whenever he please. It is better that the whole argument should come out, than to seek to stifle it. It was himself that opened the controversy, and he ought not to desert it.

"I do not believe that monarchy and aristocracy will continue seven years longer in any of the enlightened countries in Europe. If better reasons can be shown for them than against them, they will stand; if the contrary, they will not. Mankind are not now to be told they shall not think, or they shall not read; and publications that go no farther than to investigate principles of government, to invite men to reason and to reflect, and to shew the errors and excellencies of different systems, have a right to appear. If they do not excite attention, they are not worth the trouble of a prosecution; and if they do, the prosecution will amount to nothing, since it cannot amount to a prohibition of reading. This would be a sentence on the public, instead of the author, and would also be the most effectual mode of making or hastening revolutions.



"On all cases that apply universally to a nation, with respect to systems of government, a jury of twelve men is not competent to decide. Where there are no witnesses to be examined, no facts to be proved, and where the whole matter is before the whole public, and the merits or demerits of it resting on their opinion; and where there is nothing to be known in a court, but what every body knows out of it, every twelve men is equally as good a jury as the other, and would most probably reverse each other's verdict; or from the variety of their opinions, not be able to form one. It is one case, whether the nation approve a work, or a plan; but is quite another case, whether it will commit to any such jury the power of determining whether that nation have a right to, or shall reform its government or not. I mention those cases, that Mr. Burke may see I have not written on government without reflecting on what is law, as well as on what are rights.—The only effectual jury in such cases would be, a convention of the whole nation fairly elected; for in all such cases the whole nation is the vicinage. If Mr. Burke will propose such a jury, I will wave all privileges of being the citizen of another country, and, defending its principles, abide the issue, provided he will do the same; for my opinion is, that his work and his principles would be condemned instead of mine.

"As to the prejudices which men have from education and habit, in favour of any particular form or system of government, those prejudices have yet to stand the test of reason and reflection. In fact, such prejudices are nothing. No man is prejudiced in favour of a thing, knowing it to be wrong. He is attached to it on the belief of its being right; and when he sees it is not so, the prejudice will be gone. We have but a defective idea of what prejudice is. It might be said, that until men think for themselves the whole is prejudice, and *not opinion*; for that only is opinion which is the result of reason and reflection. I offer this remark, that Mr Burke may not confide too much in what has been the customary prejudices of the country.

"I do not believe that the people of England have ever been fairly and candidly dealt by. They have been imposed upon by parties, and by men assuming the character of leaders. It is time that the nation should rise above those trifles. It is time to dismiss that inattention which has so long been the encouraging cause of stretching taxation to excess. It is time to dismiss all those songs and toasts which are calculated to enslave, and operate to suffocate reflection. On all such subjects men have but to think, and they will neither act wrong nor be misled. To say that any people are not fit for freedom, is to make poverty their choice, and to say they had rather be loaded with taxes than not. If such a case could be proved, it would equally prove, that those who govern are not fit to govern them, for they are a part of the same national mass.

"But admitting governments to be changed all over Europe; it certainly may be done without convulsion or revenge. It is not worth making changes or revolutions, unless it be for some great national benefit; and when this shall appear to a nation, the danger will be, as in America and France, to those who oppose; and with this reflection I close my preface.

"THOMAS PAINE.

"London, Feb. 9, 1792."

Mr. Garrow.—I had dismissed this book, but the reading of the preface has reminded me of some passages I had overlooked.

[The following passages were read.]

(Page 161, 8vo. edition).—"The fraud hypocrisy, and imposition of governments are now beginning to be too well understood to promise them any long career. The farce of monarchy and aristocracy, in all countries is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies and the mourners be comforted.

"The time is not very distant when England will laugh at itself for sending to Holland Hanover, Zell, or Brunswick for men, at the expense of a million a year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England."

(Page 161, 8vo. edition).—"Within the space of a few years we have seen two revolutions, those of America and France. In the former, the contest was long, and the conflict severe; in the latter, the nation acted with such a consolidated impulse, that having no foreign enemy to contend with, the revolution was complete in power the moment it appeared. From both those instances it is evident, that the greatest forces that can be brought into the field of revolutions, are reason and common interest. Where these can have the opportunity of acting, opposition dies with fear, or crumbles away by conviction. It is a great standing which they have now universally obtained; and we may hereafter hope to see revolutions, or changes in governments produced with the same quiet operation by which any measure, determinable by reason and discussion, is accomplished.

"When a nation changes its opinion and habits of thinking, it is no longer to be governed as before; but it would not only be wrong, but bad policy, to attempt by force what ought to be accomplished by reason. Rebellion consists in forcibly opposing the general will of a nation whether by a party or by a government. There ought, therefore, to be in every nation a method of occasionally

ascertaining the state of public opinion with respect to government. On this point the old government of France was superior to the present government of England, because, on extraordinary occasions, recourse could be had to what was then called the States-general. But in England there are no such occasional bodies; and as to those who are now called representatives, a great part of them are mere machines of the court, placemen, and dependants."

(Page 170, 8vo. edition—a note.)—"I know it is the opinion of many of the most enlightened characters in France, (there always will be those who see farther into events than others) not only among the general mass of citizens but of many of the principal members of the former National Assembly, that the monarchical plan will not continue many years in that country. They have found out, that as wisdom cannot be made hereditary, power ought not; and that, for a man to merit a million sterling a year from a nation, he ought to have a mind capable of comprehending from an atom to a universe; which, if he had, he would be above receiving the pay. But they wished not to appear to lead the nation faster than its own reason and interest dictated. In all the conversations where I have been present upon this subject, the idea always was, that when such a time, from the general opinion of the nation, shall arrive, that the honourable and liberal method would be, to make a handsome present, in fee simple, to the person, whoever he may be, that shall then be in the monarchical office, and for him to retire to the enjoyment of private life, possessing his share of general rights and privileges, and to be no more accountable to the public for his time and his conduct than any other citizen."

Mr. Garrow.—I shall now return to the proceedings of the Constitutional Society; read an entry at a meeting of the 5th of October, 1792.

[It was read.]

"At a meeting of the society held at the Crown and Anchor-tavern, Strand, on Friday, October 5th, 1792.

"Mr. J. F. Tuffin in the chair.

"Mr. J. H. Tooke, Mr. Sharpe, Mr. Sturch, Dr. Maxwell, Mr. Bonny, Mr. John Martin, Mr. Symonds, Mr. Joyce, Mr. Chatfield, Mr. Walford, Mr. Balduino, Mr. Walsh, Dr. Edwards, Mr. J. Adams, Mr. J. Williams, Mr. Hardy, Mr. Sinclair.

"Ordered, That the letter from the London Corresponding Society, entered on the minutes of the last meeting, together with the resolution of the society thereon, be published in the newspapers.

"Read the following letter from Mr. Joel Barlow, to the Society for Constitutional Information, London :

"Gentlemen;—I have just published a small treatise, in a letter to the National Convention of France, on the defects of the constitution of 1791, and the extent of the amendments which ought to be applied. As the true principles of government are the same in all countries, being founded on the Rights of Man, which are universal and imprescriptible, I conceive the subject of this treatise cannot be foreign to the great object of your association, of which you have done me the favour to make me an honorary member; I, therefore, present a copy of it to you, with the same confidence that I have done to the National Convention, a confidence arising from a full conviction that the work is founded in truth and reason, although these principles seem not so immediately reducible to practice in the government of this country as in that of France, yet their examination can never be unreasonable.

"A great revolution in the management of the affairs of nations, is, doubtless, soon to be expected through all Europe; and, in the progress of mankind towards this attainment, it is greatly to be desired that the convictions to be acquired from rational discussion, should precede and preclude those which must result from physical exertion.

"Such is certainly the ardent wish of your friend and adopted brother.

(Signed) "JOEL BARLOW."

"London, October 4, 1792."

"Resolved, That the said letter be taken into consideration at the next meeting."

Mr. Garrow.—We will read the thanks voted to Mr. Barlow for this letter at the next meeting of the society, which was on the 12th of October.

[The entry read.]

"At a meeting of the society held at the Crown and Anchor tavern, Strand, Friday, 12th October, 1792,

"PRESENT

"Mr. Bush in the chair:

"Mr. J. H. Tooke, Mr. Bonney, Mr. W. Sharpe, Mr. Symonds, Mr. J. Martin, Mr. Moore, Mr. Merry, Mr. Williams, Mr. Sturch, Mr. Banks, Mr. Holcroft, Mr. G. Williams, Mr. Bailey, Mr. Tuffin, Mr. Satchell, Mr. Watts, Mr. Rutt, Mr. Hull, Mr. Joyce, Mr. Littlejohn, Mr. Balduino, Mr. Aspinall, Mr. Hardy, Mr. Walford, Mr. Richter, Dr. Maxwell, Mr. M. Pearson.

"Read Mr. Joel Barlow's letter to the National Convention of France, on the defects in the constitution of 1791, and the extent of the amendments which ought to be applied.

"Resolved, That Mr. Sturch be requested to draw up an answer to the letter of Mr. Barlow read at the last meeting, expressing how much pride this society feel at having elected him an honorary member."



Mr. Joseph Johnson.—Examined by  
Mr. Garrow.

I believe you are a bookseller in St. Paul's Church Yard?—I am.

And a publisher?—I am.

Be so good as look at that pamphlet which you have in your hand, and tell me whether that is of your publishing?—I really cannot answer that question.

Do you know the person who appears to be the author, Joel Barlow?—Yes, I do.

It appears to be published by you, does it not?—It does, I published such a pamphlet.

I am not asking you at present whether these sheets of paper came out of your shop, have the goodness to attend to the question, you know Mr. Barlow you say?—Yes, I do.

Did you publish for him at any time a work with the title of that pamphlet.—I did.

Had you communication with him upon the subject of that publication?—I had.

Did you from him receive the manuscript?—I think I did.

Have you any doubt of it?—Whether he gave it to me or the printer I am not sure.

Who paid you for it?—The sale paid for it.

Be so good as look at it, and tell me whether you have any doubt that it was published by you for Joel Barlow?—I cannot recollect the contents of pamphlets I publish.

I suppose not, you publish a good many?—I believe it to be that.

Have you any doubt about it?—I cannot say I have any doubt about it.

You publish a great many books, and you do not always recollect the contents—did it happen to you to publish the Rights of Man?—No.

Did you sell any?—Yes.

How many copies—I do not ask you to within a thousand,—but about how many do you think you sold?—I cannot tell.

Did you sell many or few?—I cannot tell what you mean by many.

Did you sell some dozens?—Certainly I did—when that pamphlet was published it was supposed not to be a libel, afterwards it was proved to be one. I beg to ask the Court whether I am obliged to answer that question?

Lord Chief Justice Eyre.—It will not expose you to any hazard to say whether you happen to know how many copies were published. The witness ought not to be asked how many he published himself.

Mr. Garrow.—Do you know of your own knowledge whether the sale of the book called the Rights of Man was extensive or not? I do not ask you whether you sold one yourself.—Yes, I think I can say that the sale was large.

Do you recollect receiving any number of a publication called a Letter to Mr. Dundas from Mr. Paine?—I did not publish it.

I did not ask if you published it, or whether you distributed any of it, but whether any certain number of copies of that publica-

tion were sent to you by any body—I will assist your memory, were there not seven hundred sent to you?—I think there were some sent to me and forwarded into the country—a parcel was sent to me to convey to the coach, I believe.

Where from?—I do not know, but I suppose, from the printer's.

Do not you know of your own knowledge by whose order they were sent, or from whom they came?—No.

You said the sale of Mr. Barlow's Letter paid for the expense—what quantity might be sold?—Perhaps five or six hundred—I really do not know.

[Extracts read from—"A Letter to the National Convention of France, on the Defects of the Constitution of 1791, and the extent of the amendments which ought to be applied, by Joel Barlow, esq. author of Advice to Privileged Orders."]

(From page 1, to the middle of page 12.)—

"Gentlemen the time is at last arrived when the people of France, by resorting to their own proper dignity, feel themselves at liberty to exercise their unembarrassed reason, in establishing an equal government. The present crisis in your affairs, marked by the assembling of a National Convention, bears nearly the same relation to the last four years of your history, as your whole revolution bears to the great accumulated mass of modern improvement; compared, therefore, with all that is past, it is perhaps the most interesting portion of the most important period that Europe has hitherto seen.

"Under this impression, and with the deepest sense of the magnitude of the subject which engages your attention, I take a liberty which no slight motives could warrant in a stranger, the liberty of offering a few observations on the business that lies before you. Could I suppose, however, that any apology were necessary for this intrusion, I should not rely upon the one here mentioned, but my intentions require no apology; I demand to be heard, as a right. Your cause is that of human nature at large; you are the representatives of mankind; and though I am not literally one of your constituents, yet I must be bound by your decrees. My happiness will be seriously affected by your deliberations; and in them I have an interest, which nothing can destroy. I not only consider all mankind as forming but one great family, and therefore bound by a natural sympathy to regard each other's happiness as making part of their own; but I contemplate the French nation at this moment as standing in the place of the whole, you have stepped forward with a gigantic stride to an enterprise which involves the interests of every surrounding nation; and what you began as justice to yourselves, you are called upon to finish as a duty to the human race.

"I believe no man cherishes a greater veneration than I have uniformly done, for

the National Assembly who framed that constitution, which I now presume your constituents expect you to revise. Perhaps the merits of that body of men will never be properly appreciated. The greatest part of their exertions were necessarily spent on objects which cannot be described; and which from their nature can make no figure in history. The enormous weight of abuses they had to overturn, the quantity of prejudice with which their functions called them to contend, as well in their own minds as in those of all the European world, the open opposition of interests, the secret weapons of corruption, and the unbridled fury of despairing faction—these are subjects which escape our common observation, when we contemplate the labours of that assembly. But the legacy they have left to their country in their deliberative capacity will remain a lasting monument to their praise; and though while searching out the defective parts of their work, without losing sight of the difficulties under which it was formed, we may find more occasion to admire its wisdom, than to murmur at its faults; yet this consideration ought not to deter us from the attempt.

"The great leading principle, on which their constitution was meant to be founded, is the *equality of rights*. This principle being laid down with such clearness, and asserted with so much dignity in the beginning of the code, it is strange that men of clear understandings should fail to be charmed with the beauty of the system which nature must have taught them to build on that foundation. It shows a disposition to counteract the analogy of nature, to see them at one moment impressing this indelible principle on our minds and with the next breath declaring, that France shall remain a monarchy, that it shall have a king, hereditary, inviolable, clothed with all the executive, and much of the legislative power, commander in chief of all the national force by land and sea, having the initiative of war, and the power of concluding peace;—and above all, to hear them declare that, 'The nation will provide for the splendour of the throne,' granting in their legislative capacity to that throne more than a million sterling a year, from the national purse, besides the rents of estates which are said to amount to half as much more.

"We must be astonished at the paradoxical organization of the minds of men who could see no discordance in these ideas, they begin with the open simplicity of a rational republic, and immediately plunge into all the labyrinths of royalty; and a great part of the constitutional code is a practical attempt to reconcile these two discordant theories. It is a perpetual conflict between principle and precedent, —between the manly truths of nature, which we all must feel, and the learned subtleties of statesmen, about which we have been taught to reason.

VOL. XXIV.

"In reviewing the history of human opinions, it is an unpleasant consideration to remark how slow the mind has always been in seizing the most interesting truths; although, when discovered, they appear to have been the most obvious. This remark is no where verified with more circumstances of regret, than in the progress of your ideas in France relative to the inutility of the kingly office. It was not enough that you took your first stand upon the high ground of natural right; where, enlightened by the sun of reason, you might have seen the clouds of prejudice roll far beneath your feet, it was not enough that you began by considering royalty, with its well known scourges as being the cause of all your evils, that the kings of modern Europe are the authors of war and misery, that their mutual intercourse is a commerce of human slaughter—that public debts and private oppressions, with all the degrading vices that tarnish the face of nature, had their origin in that species of government which offers a premium for wickedness, and teaches the few to trample on the many; it was not enough that you saw the means of a regeneration of mankind in the system of equal rights, and that in a wealthy and powerful nation you possessed the advantage of reducing that system to immediate practice as an example to the world, and a consolation to human nature. All these arguments, with a variety of others, which your republican orators placed in the strongest point of light, were insufficient to raise the public mind to a proper view of the subject.

"It seems that some of your own philosophers had previously taught, that royalty was necessary to a great nation. Montesquieu, among his whimsical maxims about laws and government, had informed the world that a limited monarchy was the best possible system, and that a democracy could never flourish but in a small tract of country. How many of your legislators believed in this doctrine; how many acted from temporising motives, wishing to banish royalty by slow degrees; and how many were led by principles less pardonable than either, it is impossible to determine. Certain it is, that republican ideas gained no ground upon the monarchical in your constituting assembly, during the last six months of their deliberations. It is likewise certain, that the majority of that assembly took much pains to prevent the people from discovering the cheat of royalty, and to continue their ancient veneration, at least for a while, in favour of certain principles in government, which reason could not approve.

"It is remarkable, that all the perfidy of your king, at the time of his flight, should have had so little effect in opening the eyes of so enlightened a people as the French. His flight, and the insulting declaration which he left behind him, were sufficient not only to give the lie to the fiction, with which common sense has always been put to the

\* L



blush, and to which your assembly had attempted to give a sanction, *That Kings can do no wrong*; but they were sufficient to show, at least to all who would open their eyes, that the business of government required no such officer. There is no period, during your revolution, if there is any to be found in the history of France, when business went on with more alacrity and good order, than during the suspension of the royal functions, in the interval, from the time that the king was brought back to the capital, in June, till the completion of the constitution in September. Every thing went right in the kingdom, except within the walls of the assembly. A majority of that body was determined to make an experiment of a limited monarchy. The experiment has been made. Its duration has, indeed, been short, being less than eleven months; but, although in some respects it has been almost as fatal to the cause of liberty as any system could have been within the time, yet, in other respects, it has done more good than all the reasonings of all the philosophers of the age could have done in a much longer time: it has taught them a new doctrine, which no experience can shake, and which reason must confirm, *That Kings can do no good.*"

(Page 14 and part of 15).—"Among the probable evils resulting from the kingly office, the principal one, and indeed the only one that need to be mentioned, is the chance of its being held by a *weak or a wicked man*. When the office is hereditary, it is scarcely to be expected but that this should always be the case. Considering the birth and education of princes, the chance of finding one with practical common sense, is hardly to be reckoned among possible events; nor is the probability less strong against their having virtue. The temptations to wickedness arising from their situation, are too powerful to be resisted. The persuasive arts of all their flatterers, the companions of their youth, the ministers of their pleasures, and every person with whom they ever converse, are necessarily employed to induce them to increase their revenue, by oppressing the people, whom they are taught from their cradle, to consider as beasts of burthen; and what must almost insure the triumph of wickedness in their tempers, is, the idea that they act totally and for ever without restraint. This is an allurements to vice, that even men of sense could scarcely resist. Impress it on the mind of any man, that he *can do no wrong*, and he will soon convince you of your mistake.

"Take this general summary of the evils arising from hereditary monarchy, under any restrictions that can be proposed, and place it on one side of the account, and state, on the other side, the truth which I believe no man of reflection will hereafter call in question, *That Kings can do no good*, and the friends of liberty will no longer be in doubt which way you will decide the question relative to that part of your constitution

(Page 22 to 26).—"But it will be said, I am too late, with all these observations, on the necessity of proscribing royalty from your constitution. The cause is already judged in the minds of the whole people of France; and their wishes will surely be the rule of your conduct. I suppose that, without being reminded of your duty by a stranger, one of your first resolutions would be, to fix a national anathema on every vestige of regal power, and endeavour to wipe out from the human character the stain which it received with its veneration for kings and hereditary claims. But it requires much reflection, to be well aware to what extent this duty should carry you. There are many vices in your constitution, which though not apparently connected with the king, had their origin in regal ideas. To purify the whole code from these vices, and to purge human nature from their effects, it will be necessary to resort to many principles which appear not to have struck the minds of the first assembly.

"You will permit me to hint at some of the great outlines of what may be expected from you under the peculiar advantages with which, you meet to form a glorious republic. Although many of my ideas may be perfectly superfluous, being the same as will occur to every member of your body, yet it is possible that some of them may strike the mind in a new point of light, and lead to reflections which would not rise from any other quarter. Should this be the case in the smallest degree, it ought to be considered, both by you and me, as an ample reward for our pains in writing and in reading this letter.

"On considering the subject of government, when the mind is once set loose from the shackles of royalty, it finds itself in a new world: it rises to a more extensive view of every circumstance of the social state. Human nature assumes a new and more elevated shape, and displays many moral features, which, from having been always disguised, were not known to exist. In this case, it is a long time before we acquire a habit of tracing effects to their proper causes, and of applying the easy and simple remedy to those vices of our nature which society requires us to restrain. This, I apprehend, is the source of by far the greatest difficulties with which you have to contend. We are so much used, in government, to the most complicated systems, as being necessary to support those impositions, without which it has been supposed impossible for men to be governed, that it is an unusual task to conceive of the simplicity to which the business of government may be reduced, and to which it must be reduced, if we would have it answer the purpose of promoting happiness.

"After proscribing royalty, with all its appendages, I suppose it will not be thought necessary in France to support any other errors and superstitions of a similar complexion; but that undisguised reason, in all things, will be



preferred to the cloak of imposition. Should this be the case, you will conceive it no longer necessary to maintain a *national church*. This establishment is so manifestly an imposition upon the judgment of mankind, that the constituting assembly must have considered it in that light. It is one of those monarchical ideas, which pay us the wretched compliment of supposing, that we are not capable of being governed by our own reason. To suppose that the people of France are to learn the mode of worshipping God from the decrees of the council of Trent, is certainly as absurd as it would be to appeal to such a council, to learn how to breathe, or to open their eyes. Neither is it true, as is argued by the advocates of this part of your constitution, that the preference there given to one mode of worship, by the payment of the Catholic priests from the national purse, to the exclusion of others, was founded on the idea of the property supposed to have been possessed by that church, and which, by the assembly, was declared to be thenceforward the property of the nation.

"The church, in this sense of the word, signifies nothing but a *mode of worship*; and to prove that a mode can be a proprietor of lands, requires a subtlety of logic that I shall not attempt to refute. The fact is, the church, considered as an *hierarchy*, was always necessary to the support of royalty; and your assembly, with great consistency of design, wishing to preserve something of the old fabric, preserved something of this necessary prop. But as the fabric is now overturned, the prop may be safely taken away. I am confident that monarchy and hierarchy will be buried in the same grave, and that in France they will not survive the present year."

(Page 31).—"After laying down the great fundamental principle, *that all men are equal in their rights*, it ought to be the invariable object of the social compact to insure the exercise of that equality, by rendering them as equal in all sorts of enjoyments, as can possibly be consistent with good order, industry, and the reward of merit. Every individual ought to be rendered as *independent* of every other individual as possible; and, at the same time, as *dependent* as possible on the whole community.

"On this undeniable maxim, I think the following positions ought to be founded and guaranteed in the constitutional code:—

Mr. Lantini.—I found this letter in Mr. Hardy's house among his other papers.

[It was read.]

"To the London Corresponding Society.

"Gentlemen;—I have lately published a small treatise under the title of 'A Letter to the National Convention of France, on the Defects in the constitution of 1791, and the extent of the Amendments which ought to be applied.' Although the observations con-

tained in this letter are more particularly applicable to the French nation in the present crisis of its government, yet, as the true principles of society are every where the same, their examination cannot be unseasonable in any nation or at any time. Believing, therefore, that the subject of this treatise will not be thought foreign to the great object of your association, I present a copy of it to you, with the same confidence as I have done to the National Convention, and to the Constitutional Society in London: a confidence arising from the full persuasion that the work is founded in truth and reason.

"I take the liberty at the same time to send you a copy of another publication, intitled, 'Advice to the Privileged Orders.'

"The present disposition in Europe towards a general revolution in the principle of government, is founded in a current of opinion too powerful to be resisted, as well as too sacred to be treated with neglect. It is the duty of every individual to assist, not only in removing the obstructions that are found in the way of this revolution, but in ascertaining with as much precision as possible the nature of the object to be aimed at, and the consequences to be expected from the attainment. It is above all things to be desired that the convictions to be acquired from rational discussion, should precede and preclude those which must result from physical exertion.

"Such, I believe, is the object of your society, and such is certainly that of your friend and servant,

JOEL BARLOW."

"London, Oct. 6th, 1792.

Addressed "To the London Corresponding Society, care of Mr. Thomas Hardy, No. 9, Piccadilly."

Mr. Garrow to Mr. Johnson.—Who was the author of this pamphlet, which appears to have been published by you, intitled "Advice to the Privileged Orders?"—I published a pamphlet with that title for Mr. Barlow: I believe this is it.

Do you know whether he was the sole author of it, or were there any other persons concerned in it?—I cannot tell; but I really believe he was the sole author.

Which you published in the same way, I suppose, as you did the other—Had it a large sale?—Not a very large sale; not many more than a thousand, I believe.

[Extracts read from "Advice to the Privileged Orders of the several States of Europe, resulting from the Necessity and Propriety of a General Revolution in the Principles of Government, Part I. the Third Edition, by Joel Barlow."]

(From page 17 to page 20).—"Mr. Burke, however, in his defence of royalty, does not rely on this argument of the compact. Whether it be that he is conscious of its futility, or that in his rage he forgets that he has used it, he is perpetually recurring to the last



ground that has yet been heard of on which we are called upon to consider kings, even as a tolerable nuisance, and to support the existing forms of government; this ground is the *general good of the community*. It is said to be dangerous to pull down systems that are already formed, or even to attempt to improve them; and it is likewise said, that, were they peaceably destroyed, and we had society to build up anew, it would be best to create hereditary kings, hereditary orders, and exclusive privileges.

"These are sober opinions, uniting a class of reasoners too numerous and too respectable to be treated with contempt. I believe, however, that their number is every day diminishing; and I believe the example which France will soon be obliged to exhibit to the world on this subject, will induce every man to reject them who is not personally and exclusively interested in their support.

"The inconsistency of the Constituent Assembly, in retaining an hereditary king, armed with an enormous civil list, to wage war with a popular government, has induced some persons to predict the downfall of their constitution; but this measure had a different origin from what is commonly assigned to it, and will probably have a different issue; it was the result rather of local and temporary circumstances, than of any general belief in the utility of kings, under any modifications or limitations that could be attached to the office.

"It is to be observed, *first*, that the French had a king upon their hands: this king had always been considered as a well-disposed man; so that, by a fatality somewhat singular, though not unexampled in *regal history*, he gained the love of the people almost in proportion to the mischief which he did them. *Secondly*, their king had very powerful family connexions in the sovereigns of Spain, Austria, Naples, and Sardinia, besides his relations within the kingdom, whom it was necessary to attach, if possible, to the interests of the community. *Thirdly*, the Revolution was considered by all Europe as a high and dangerous experiment; it was necessary to hide, as much as possible, the appearance of its magnitude from the eye of the distant observer. The reformers considered it as their duty to produce an internal regeneration of society, rather than an external change in the appearance of the court; to set in order the counting-house and the kitchen, before arranging the drawing-room. This would leave the sovereigns of Europe totally without a pretext for interfering, while it would be consoling to that class of philosophers who still believed in the compatibility of royalty and liberty. *Fourthly*, this decree that *France should have a king*, and that he *could do no wrong*, was passed at an early period of their operations, when the above reasons were apparently more urgent than they were afterwards, or probably will ever be again.

"From these considerations we may conclude that royalty is preserved in France for reasons which are fugitive; that a majority of the Constituent Assembly did not believe in it as an abstract principle; that a majority of the people will learn to be disgusted with so unnatural and ponderous a deformity in their new edifice, and will soon hew it off.

"After this improvement shall have been made, a few years experience in the face of Europe, and on so great a theatre as that of France, will probably leave but one opinion, in the minds of honest men, relative to the republican principle, or the great simplicity of nature, applied to the organization of society."

(Page 21)—"It depends on a much more important class of men, the class that cannot write, and in a great measure on those who cannot read; it is to be decided by men who reason better without books, than we do with all the books in the world; taking it for granted, therefore, that a general revolution is at hand, whose progress is *irresistible*, my object is to contemplate its probable effects, and to comfort those who are afflicted at the prospect."

Mr. Garrow to Mr. Johnson.—Did you publish the former editions of this work?—I did.

Perhaps you mean that the sale of each edition was not more than you mentioned?—There were three editions, five hundred each edition, and there were a considerable number left.

Was this first published before the death of the late king of the French, or not?

Mr. Johnson.—What is the date in the title-page?

Mr. Garrow.—This is the third edition—Do you know whether this was published before, or after that event?—I cannot tell; I think it was published in 1792, or 1791.

Mr. Garrow to Mr. Johnson.—Be so good as look at that pamphlet: it is called "A Letter to the Addressers, by Thomas Paine." Do you know whether any pamphlet of that sort was published by Thomas Paine?—Certainly there was.

Do you believe this to be one of the copies that were so published?—I believe it is.

I do not know whether you know any thing of the cheap edition or not; do you know how soon the cheap edition came out after the first edition?—No.

Have you seen any of the cheap edition?—Yes.

Do you know whether that was published about the same time?—It was published after the large edition; I do not know how long.

Look at that copy of the cheap edition, and say whether you believe that to be one of the copies that were published?—I cannot say, because any printer may copy this.

Mr. Erskine.—Do you mean to swear that the large edition is; that either is?—No. I only believe it from the appearance of it; any printer may copy it.

Mr. *Garrow*.—You have already said, that you believe that to be one of the copies of the large edition which was published by Mr. Paine?—It has all the appearance of it; any printer may take a fac simile copy of it.

Upon looking at it, do you believe it to be one, or have you any doubt on the subject?—I cannot positively say; a printer may print a fac simile of it.

Do you believe that to have been printed by a printer making a fac simile without authority, or to be one of the original edition? I ask you upon your oath.—I cannot say, because a printer can make a fac simile.

Lord Chief Justice *Eyre*.—Unless he can speak from the type, or the intrinsic circumstances, it is nothing.—I really cannot so speak.

Mr. *Garrow*.—Whom does that appear in the title-page to be printed by?—Symonds.

Is there any other person named as the publisher?—And Clio Rickman.

Had you communications with the author upon the subject of an edition of the Address to the Addressers?—I beg leave to address the Court.—My lord, this publication has been deemed a libel —

Mr. *Garrow*.—I am not asking the witness whether he published or sold any of them, or whether he lent any one, but whether he had any communication with the author upon the subject?—The author printed it, to the best of my knowledge, when I was in the country; I was at Margate, I believe, at the time when he printed this pamphlet.

Lord Chief Justice *Eyre*.—Hitherto I do not observe, that you have laid a ground for asking any question about this book.

Mr. *Attorney General*.—We will postpone the examination of Mr. Johnson at present.

Mr. *Garrow*.—We will now read the rest of the Minute of the Constitutional Society of the 12th of October, which your lordship recollects we postponed in order to read Mr. Barlow's book.

[It was read.]

"Ordered, That the secretary be directed to transmit a copy of the *Argus* of to-morrow to each of the members of this society.

"Read, The following letter, and inclosed address to the National Convention of France, from the London Corresponding Society.

"To D. Adams, secretary to the Society for Constitutional Information.

"Sir;—Your favour of the third instant, informing us, that our proposal for addressing the French National Convention, had met with the approbation of the Society for Constitutional Information, we have enclosed you a copy of the address we have drawn up, and mean to send, the society at large having approved of it.

"Not in the least presuming to propose it for the adoption of your society, ourselves will jayfully throw it aside, and as readily sub-

scribe to any production of your's, better calculated to answer the purpose, and less unworthy being presented to so august an assembly.

"Should no other be produced, we imagine this plain, but honest address, will be adopted by some other societies, in concurrence with our own; and respecting the manner of signing, of conveying, and of presenting it, your better experienced advice will greatly oblige, gentlemen, your very humble servants, for the committee of the London Corresponding Society,

(Signed)

"MAURICE MARGAROT, chairman.

"THOMAS HARDY, secretary."

"Thursday, 11th October, 1792."

"Frenchmen!—While foreign robbers are ravaging your territories, under the specious pretext of justice; cruelty and desolation leading on their van, perfidiously with treachery bringing up their rear, yet mercy and friendship impudently held forth to the world as the sole motives of their incursions, the oppressed part of mankind forgetting, for awhile, their own sufferings, feel only for yours, and with an anxious eye watch the event, fervently supplicating the Almighty Ruler of the Universe to be favourable to your cause, so intimately bleended with their own.

"Frowned upon by an oppressive system of control, whose gradual, but continued encroachments, have deprived this nation of nearly all its boasted liberty, and brought us almost to that abject state of slavery, from which you have so emerged, 5,000 British citizens, indignant, manfully step forth to rescue their country from the opprobrium brought upon it, by the supine conduct of those in power. They conceive it to be the duty of Britons to countenance and assist, to the utmost of their power, the champions of human happiness, and to swear to a nation, proceeding on the plan you have adopted, an inviolable friendship. Sacred from this day be that friendship between us! And may vengeance to the uttermost, overtake the man who hereafter shall attempt to cause a rupture.

"Though we appear so few at present, be assured, Frenchmen, that our number increases daily; it is true, that the stern uplifted arm of authority at present keeps back the timid, that busily circulated impostors hourly mislead the credulous, and that court intimacy, with avowed French traitors, has some effect on the unwary, and on the ambitious. But, with certainty, we can inform you, friends and freemen, that information makes a rapid progress among us. Curiosity has taken possession of the public mind; the conjoint reign of ignorance and despotism passes away. Men now ask each other, what is freedom? what are our rights? Frenchmen, you are already free, and Britons are preparing to become so!

"Casting far from us the criminal prejudices artfully inculcated by evil-minded men,



and wily courtiers; we, instead of natural enemies, at length discover in Frenchmen, our fellow citizens of the world, and our brethren by the same Heavenly Father, who created us for the purpose of loving and mutually assisting each other; but not to hate, and to be ever ready to cut each others throats, at the command of weak or ambitious kings, and corrupt ministers.

"Seeking our real enemies, we find them in our bosoms; we feel ourselves inwardly torn by, and ever the victims of a restless, all-consuming aristocracy, hitherto the bane of every nation under the sun! Wisely have you acted in expelling it from France.

"Warm as are our wishes for your success, eager as we are to behold freedom triumphant, and man every where restored to the enjoyment of his just rights, a sense of our duty, as orderly citizens, forbids our flying in arms to your assistance; our government has pledged the national faith to remain neutral:—in a struggle of liberty against despotism, Britons remain neutral! O shame! But we have entrusted our king with discretionary powers;—we therefore must obey;—our hands are bound, but our hearts are free, and they are with you.

"Let German despots act as they please. We shall rejoice at their fall, compassionating however their enslaved subjects. We hope this tyranny of their masters will prove the means of reinstating, in the full enjoyment of their rights and liberties, millions of our fellow creatures.

"With unconcern, therefore, we view the elector of Hanover join his troops to traitors and robbers; but the king of Great Britain will do well to remember, that this country is not Hanover.—Should he forget this distinction, we will not.

"While you enjoy the envied glory of being the unaided defenders of freedom, we fondly anticipate, in idea, the numerous blessings mankind will enjoy, if you succeed, as we ardently wish, the triple alliance (not of crowns, but) of the people of America, France, and Britain, will give freedom to Europe, and peace to the whole world. Dear friends, you combat for the advantage of the human race. How well purchased will be, though at the expense of much blood, the glorious, the unprecedented privilege of saying, mankind is free! Tyrants and tyranny are no more! Peace reigns on the earth! And this is the work of Frenchmen."

"Resolved;—That the thanks of this society be given to the London Corresponding Society, for the above address transmitted by them; and that the secretary acquaint them, this society do highly approve of the spirit of the same."

[The following entries were read from the books of the Society for Constitutional Information.]

"At a meeting of the

Crown and Anchor-tavern, Strand, Friday, October 19, 1792,

"PRESENT,

"Mr. J. H. Tooke in the chair.

"Mr. Sturch, Mr. Hull, Mr. Frost, Mr. Williams, Mr. Merry, Dr. Edwards, Mr. Pearson, Mr. Ausell, Mr. Sharpe, Mr. Brookbank, Mr. Walsh, Mr. Banks, Mr. Bonney, Mr. Peacock, Mr. Walford, Mr. Chatfield, Mr. Joyce, Mr. Holcroft, Mr. Balmanno, Mr. Richter, lord Edward Fitzgerald, Mr. Sinclair.

"Mr. Sturch produced and read to the society the following answer he was directed to prepare to Mr. Joel Barlow, which was approved of and published together with Mr. Barlow's letter to this society in the papers.

"Sir;—your manly and energetic address to the National Convention in France, having been received by the Society for Constitutional Information, and read at their last meeting, they cannot hesitate to return you their unanimous thanks for so valuable a present, and to express in the warmest terms their hearty approbation of its spirit and tendency: your little treatise, by exhibiting the most important political truths in a new and striking point of view, is, in their opinion, happily calculated to inform the inquiring mind, and to inspire an ardent and enlightened zeal for the freedom and happiness of mankind. In this opinion, they doubt not, the public voice will concur, when the pamphlet shall have obtained that general circulation to which its merits entitle it.

"It is with reason that you think the subject of your book not foreign to the great object of the society, which has invariably been, to lead their countrymen to think for themselves on the momentous subject of government, and thus to produce an universal and practical conviction of one great truth, that without a real representation of the people; frequently renewed, there can be no effectual check to that system of corruption, by which the public treasure is squandered; no security for that portion of liberty which we shall enjoy, nor any rational hope that government will be conducted with a view to its only proper object, the happiness of the many, and not the interest of the few.

"The society observe, with heart-felt satisfaction, that in the present great crisis of human affairs while some writers are found even in this country, who openly proclaim what they call the 'cause of kings' in opposition to the cause of the people, whom they impudently term the 'swinish multitude;' there are not wanting on the other hand, men of the first character and ability who nobly vindicate the rights of man, and they trust, that your excellent writings in general, and the letter to the Convention of France in particular, will be eminently conducive to the successful final triumph of that cause, which

you justly style 'the most glorious that ever engaged the attention of mankind.'

"Joel Barlow, esq."

"Read the following letter from the London Corresponding Society:

"London, October 18, 1792.

"Sir;—The London Corresponding Society learn, with pleasure, that the Society for Constitutional Information approve the spirit of our address; but to come back to the point, we imagine that as you had previously approved the measure, and as you now like the spirit of the address, we may with propriety, ask you, whether you will concur with us in sending that address, or whether you will draw up another better suited to the present circumstances; and permit us to join you in transmitting it to the French National Convention.—I am, sir, for the committee of the delegates of the London Corresponding Society, your very humble servant,

"MAURICE MARGAROT, chairman.

"D. ADAMS, secretary to the Society for Constitutional Information."

"Resolved;—That the committee be appointed to confer with the delegates of the London Corresponding Society, on an address to the National Convention of France."

"At a meeting of the society held Friday, October 26, 1792, at the Crown and Anchor-tavern, Strand,

"Mr. John Frost in the chair,

"Mr. Holcroft, Mr. Peacock, Mr. Moore, Mr. Hull, Mr. Walford, Dr. Edwards, Mr. Sharpe, Mr. Banks, Mr. Balmanno, Dr. Maxwell, Mr. J. Martin, Mr. Sinclair, Mr. Sturch, Mr. Joyce, colonel Keating, Mr. Pearson, Mr. Bonney, Mr. I. Williams, Mr. J. H. Tooke, Mr. Brookbank, Mr. Dodson, Mr. Sutton, Mr. Bailey, Mr. Morgan, Mr. Barlow, Mr. Satchell, Mr. J. Adams, Mr. Richter, Mr. Geddes.

"The secretary read the report of the committee appointed at the last meeting.

"Resolved;—That the report of the committee be re-committed.

"Ordered;—That the secretary do procure correct copies of the manifesto, published by the late general Burgoyne while in America; of the first manifesto lately published by the duke of Brunswick in France; of the last royal proclamation against writings and meetings in England; and of the emperor's recent proclamation at Brussels on the same subject. In order that these four pieces may be printed fairly together on one sheet of paper, and be transmitted by this society to all the associated societies in Great Britain.

"Resolved;—That the above order be published in the newspapers.

"Resolved;—That at the next meeting of the society, they do consider of an answer to the London Corresponding Society on the

subject of their letter, accompanying their address to the National Convention of France.

"Resolved;—That at the said meeting, the society do attend to the example of the London Corresponding Society, and consider of an address to the National Convention of France."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, November 2, 1792,

"PRESENT,

"Mr. Frost in the chair,

"Mr. Tooke, Mr. Bosville, Mr. Walsh, Dr. Edwards, Mr. Bonney, Mr. J. Martin, Mr. Sturch, Mr. Sharp, Mr. Geddes, colonel Keating, Mr. Rae, Mr. Bakewell, Mr. Joyce, Mr. Barlow, Mr. Johnson, Mr. Sinclair, Mr. Holcroft, Mr. Williams, Mr. Hind, Mr. Tuffin, Mr. M. Bush, Mr. G. Williams, Mr. Aspinall, Mr. Fitzgerald.

"Resolved;—That a committee of correspondence be appointed, to consider of, and prepare answers to all such letters as are, or may be, sent to this society.

"Ordered;—That the answer to the letter of the London Corresponding Society, accompanying their address to the National Convention of France, be referred to the said committee.

"Resolved;—That a committee be appointed to consider of an address to the National Convention of France.

"Resolved;—That Messrs. Barlow, Sinclair, and Tuffin, do compose the said committee; and that the said committee be requested to make their report on Friday next."

"At a meeting of the society for Constitutional Information, held at the Crown and Anchor, Strand, Friday 9th November, 1792.

"PRESENT,

"Lord Sempill in the chair,

"Mr. Bosville, Mr. Rae, Mr. Hull, Mr. Sharpe, Mr. Jennings, Mr. Sutton, Mr. Frost, Mr. Tooke, Mr. Sturch, col. Keating, Mr. Holcroft, Mr. Barlow, Mr. Tuffin, Mr. Sinclair, Mr. Margarot, Mr. Watts, Mr. Richter, Mr. Littlejohn, captain Perry, Mr. John Martin, Mr. Banks, Mr. Williams, Mr. Geddes, Mr. Fitzgerald, Mr. Parkinson, Mr. Gerrald, Mr. Rickman, Mr. Bush, jun., Mr. Lockhart, Mr. Moore,

"The committee appointed at the last meeting to prepare an address from this society to the National Convention of France, made their report, and produced the following address which was read and approved:

"The Society for Constitutional Information in London, to the National Convention of France.

"Servants of a Sovereign People, and Benefactors of Mankind;—We rejoice that your



revolution has arrived at that point of perfection which will permit us to address you by this title; it is the only one that can accord with the character of true legislators. Every successive epoch in your affairs, has added something to the triumphs of liberty; and the glorious victory of the 10th of August, has finally prepared the way for a constitution, which we trust you will establish on the basis of reason and nature.

"Considering the mass of delusion accumulated on mankind, to obscure their understandings, you cannot be astonished at the opposition you have met both from tyrants and from slaves.—The instrument used against you by each of these classes is the same; for in the genealogy of human miseries, ignorance is at once the parent of oppression, and the child of submission.

"The events of every day are proving, that your cause is cherished by the people in all your continental vicinity; that a majority of each of those nations are your real friends, whose governments have tutored them into apparent foes, and that they only wait to be delivered by your arms from the dreaded necessity of fighting against them.

"The condition of Englishmen is less to be deplored—here the hand of oppression has not yet ventured completely to ravish the pen from us, nor openly to point the sword at you. From bosoms burning with ardour in your cause, we tender you our warmest wishes for the full extent of its progress and success. It is indeed a sacred cause; we cherish it as the pledge of your happiness, our natural and nearest friends; and we rely upon it as the bond of fraternal union to the human race, in which union our own nation will surely be one of the first to concur.

"Our government has still the power, and perhaps the inclination, to employ hirelings to contradict us; but it is our real opinion, that we now speak the sentiments of a great majority of the English nation.—The people here are wearied with imposture, and worn out with war; they have learned to reflect, that both the one and the other are the offspring of unnatural combinations in society as relative to systems of government, not the result of the natural temper of nations, as relative to each others happiness.

"Go on, legislators, in the work of human happiness—the benefits will in part be ours, but the glory shall be all your own. It is the reward of your perseverance, it is the prize of virtue. The sparks of liberty preserved in England for ages, like the coruscations of the northern aurora, served but to show the darkness visible in the rest of Europe. The lustre of the American republic, like an effulgent morning, rose with increasing vigour, but still too distant to enlighten our hemisphere, till the splendour of the French revolution burst forth upon the nations, in the full fervour of a meridian sun, and displayed in the midst of the European world, the prac-

tical result of principles which philosophy had sought in the shade of speculation, and which experience must every where confirm. It dispels the clouds of prejudice from all people, reveals the secrets of all despotism, and creates a new character in man.

"In this career of improvement, your example will be soon followed; for nations rising from their lethargy, will reclaim the rights of man, with a voice which man cannot resist.

"(Signed by order of the Society)

"SEMPILL, chairman.

"D. ADAMS, secretary.

"Resolved, That the thanks of this society be given to the committee who prepared the above address.

"Resolved, That Mr. Barlow and Mr. Frost be deputed by this society to present the address of this society at the bar of the National Convention of France.

"Resolved, That the thanks of this society be given, to Mr. Barlow and Mr. Frost for accepting the above deputation.

"Resolved, That the said address be signed by the chairman and secretary.

"Resolved, that a subscription be opened in this society, for the purpose of assisting the efforts of France, in the cause of freedom.

"Resolved, That the above resolution be published in the morning and evening papers.

"Resolved, That an answer be returned by the secretary, to the London Corresponding Society's letter, accompanied by a few copies of Mr. Paine's letters to the French people."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 16th November, 1792,

"PRESENT,

"Mr. Bosville in the chair,

"Mr. Sharpe, Mr. Hull, Mr. Fitzgerald, Mr. Pearson, Mr. Frost, Mr. Bonney, Mr. Moore, Mr. Jennings, Mr. Gerrald, Dr. Edwards, Mr. J. Williams, Mr. Barlow, Mr. Banks, Mr. Sturch, Mr. Tooke, Mr. Bush, jun Mr. Aspinall, Mr. Rae, Dr. Smith, col. Keating, Mr. Chatfield, Mr. Martin, Mr. Holcroft, Mr. Balmanno, Mr. Phillips, Mr. Sinclair, Mr. Parkinson, Mr. Joyce, Mr. Grant, Mr. Tuffin, Mr. Margatot, Mr. Hardy, Mr. Milner, Mr. Watts, Mr. Bailey, capt. Perry, Mr. Walford, Mr. Sutton.

"Read a letter from Mr. Phillips, of Leicester, requesting that the particulars of this society might be sent him for the purpose of establishing a constitutional society in that town.

"Ordered, That the secretary send to Mr. Phillips, such of the publications of this society, as he may think necessary for the purpose mentioned in Mr. Phil

"A"

Anchor tavern, Strand, Friday, 7th December, 1792,

"PRESENT,

Mr. Bryant in the chair,

"Mr. John Martin, col. Keating, Mr. J. H. Tooke, Mr. Bonney, Mr. Sharpe, Mr. Satchell, Mr. Walsh, Mr. Delacour, Mr. G. Maltby, Mr. Fitzgerald, Mr. G. Williams, Mr. Sturch, Mr. Richter, Mr. Sinclair, Mr. Chatfield, Mr. Holcroft, Mr. J. Williams, Mr. Kydd, Mr. Campbell, Mr. Watts, Mr. Cooper, (Jefferys-sq.) Rev. Dr. Towers, Mr. Balmanno, Dr. Smith, Mr. Bailey, Mr. Rae, Mr. Hardy, Mr. Joyce, Mr. White, Lord Sempill, Mr. Lockhart,

"Read a letter from Mr. Barlow and Mr. Frost, with the address to the National Convention of France, and the answer of the president.

"Ordered, That the same be taken into consideration at some future meeting."

Mr. Thomas Maclean.—I found these papers in the possession of Mr. Adams.

Mr. Garros.—This is the letter referred to in the minute last read.

[It was read.]

"Citizens and Associates;—We have executed your commission to the National Convention of France, in a manner which we hope will meet your approbation. A translation of the papers herewith inclosed, was yesterday presented at the bar of the convention, and received with universal applause. After which, the president gave us the kiss of fraternity in behalf of the French nation, which we returned in behalf of our society. The scene was truly interesting to every feeling of humanity, and drew tears from a crowded assembly. It gave rise to reflexions, which can scarcely be conceived by men in any other circumstance of life; it was the reconciliation of brothers, who had long been excited to a mortal enmity by misunderstanding and mutual imposition. The wounds which had bled for ages were closed and forgot, while the voice of nature declared they should never more be opened. The president pronounced a discourse in answer to our address, which we likewise enclose.

"JOEL BARLOW.

"Paris 29th Nov. 1792. "JOHN FROST.

"To the Society for Constitutional Information in London."

"At the Bar of the Convention, November 28.

"Citizens of France;—We are deputed from the Society for Constitutional Information in London, to present to you their congratulations on the triumphs of liberty. This society had laboured long in the cause, with little prospect of success, previous to the commencement of your revolution. Conceive the emotions of gratitude, when by the efforts of your nation, they reason acquiring an ex-

tension and solidity, which promise to reward the labours of all good men, by securing the happiness of their fellow creatures.

"Innumerable societies of a similar nature are now forming in every part of England, Scotland, and Ireland. They excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of reform.

"After the example which France has given, the science of revolutions will be rendered easy, and the progress of reason will be rapid. It would not be strange, if, in a period far short of what we should venture to predict, addresses of felicitation should cross the seas to a national convention in England."

[Here follows the address]

"We are also commissioned to inform the convention, that the society which we represent has sent to the soldiers of liberty a patriotic donation of one thousand pair of shoes, which are by this time arrived at Calais; and the society will continue sending a thousand pair a week for at least six weeks to come. We only wish to know to whose care they ought to be addressed.

"JOEL BARLOW,  
"JOHN FROST.

"Paris, Nov. 28th, 1792."

"The President's Answer.

"Brave children of a nation which has given lustre to the two worlds, and great examples to the universe; you have addressed us with something more than good wishes, since the condition of our warriors has excited your solicitude. The defenders of our liberty will one day be the supporters of your own. You command our esteem, you will accept our gratitude. The sons of liberty through the world will never forget their obligations to the English nation.

"The shades of Pym, of Hampden, and of Sydney, are hovering over your heads; and the moment cannot be distant, when the people of France will offer their congratulations to a national convention in England. Too long has the torch of discord enflamed the English and the French; while the ambition of kings, fomenting national aversions, compelled them to forget, that nature has produced none but brothers.

"Your islands, it is said, were severed from the continent by a great convulsion of the globe; but liberty, established on the two shores of the narrow sea which divides us, will repair the breach, and restore the two nations to the harmony and friendship for which nature has designed them. Reason has begun her majestic march; she can no longer be resisted in her course.

"Generous republicans, your appearance in this place will form an epoch in the history of mankind. History will consecrate the day when, from a nation long regarded as a rival, and in the name of a great number of your



fellow-citizens, you appeared in the midst of the representatives of the people of France, and she will not forget to recount, that our hearts expanded at the sight. Tell the society which deputed you, and assure your fellow-citizens in general, that in your friends, the French, you have found men."

[The following entries were read from the books of the society for Constitutional Information.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, December 14, 1792,

"PRESENT,

"Mr. J. H. Tooke in the chair.

"Mr. Christopher Hull, some part of the time in the chair.

"Mr. W. Sharpe, Mr. Bonney, Mr. J. Martin, Mr. Balmanno, jun. Mr. G. Maltby, Mr. Kydd, Mr. Chatfield, lord Sempill, Mr. Moore, Mr. Holcroft, Mr. Tuffin, Mr. Hardy, Mr. Reader, Mr. Satchell, Mr. Banks, Mr. Sturch, Mr. Lockhart, Mr. Rutt, Mr. B. Cooper, Mr. Chalk, Mr. Margarot, Mr. Rac, Mr. Fitzgerald, colonel Keating, Mr. G. Watts, Mr. Williams, Mr. Campbell, Mr. Jennings, Mr. Sinclair,

"Read a printed address from Manchester.

"Resolved, That the said address be approved for publishing in the newspapers.

"A motion was made and seconded, that the 20th law of this society be suspended on this occasion, which motion was carried in the affirmative.

"Resolved, That the said address be printed in the newspapers.

"Resolved, That one hundred thousand copies of the same be printed by this society, and distributed to their correspondents in Great Britain and Ireland.

"Resolved, That the said resolutions be signed by the chairman and secretary.

"Read a letter from the Society of Friends of Liberty and Equality, sitting at Laon, capital of the department D'l'Aisne, to the patriotic society of London, named the Society for Constitutional Information.

"Resolved, That the said letter be referred to the committee of correspondence."

Mr. Maclean.—I found these three papers in the house of Mr. Adams.

William Huskisson, esq.\* sworn.—Examined by Mr. Garrow.

You resided, I believe, for a considerable time in France?—I did.

\* In 1795, appointed under secretary of state to Mr. Dundas, in the war department. He was afterwards secretary of the treasury during Mr. Pitt's second administration, and also during the time the duke of Portland was at the head of the treasury. On the

You are well acquainted with the French language?—I am.

[Mr. Huskisson delivered into court English translations of the three letters produced by Maclean.]

[They were read.]

"Apt, the 17th December,

"First year of the French Republic.

"The popular and republican society of Apt, department of the mouths of the Rhone, to the popular society, sitting at London.

"LIVE FREE, OR DIE!

"Citizens, Brethren and Friends;—When two great nations, acquainted with their rights, approximated by their commercial connexions and their natural situation, formed to love and to act in concert with each other, begin to frame the glorious project of uniting themselves for the regeneration of the human race, one may then say with reason, that kings are ripe and ready to fall.

"How glorious will it be for France and England to have formed alone a confederacy destructive of tyrants, and to have purchased, at the price of their blood, the liberty of Europe—we may say more, of the whole universe.

"Courage, brethren and friends. It is for you to follow us in the glorious and hazardous career of the revolution of the world. Can ye any longer groan under the yoke of a government, that has nothing of liberty but the name? For, although your land was inhabited before others by freemen, can ye, without illusion, consider your government as such?

"Will ye content yourselves with a partial freedom? Will the English be satisfied with principles? Will that bold nation, that has produced philosophers the most profound, and that first of all perceived the sparkling rays of reason, remain a spectatrix in so noble a cause.

"No, brethren and friends, no! you will soon lift yourselves up against that perfidious court of St. James's, whose infernal policy, like to that which found its tomb in the Thuilleries, has made so many victims in our two nations, and does disunite them perpetually to rule over them.

"Your love for liberty has fixed your attention upon the wants of our defenders; your generosity toward them is a title to the acknowledgments of the republic. We are impatient to furnish you the same advantages. The popular societies of France desire ardently the epoch that shall permit them to address their vows to the national assembly of Great Britain, and to offer to the

29th of July, 1814, he was sworn one of his majesty's privy council, and is now [A. M. C.] first commissioner of the woods, and land revenue, and member of the Chichester

soldiers of the liberty of your nation, arms, bayonets, and pikes.

"The members composing the Committee of Correspondence :

" AUSELME	RASPAUD,
" AUBOR,	SÈBRET,
" AUBISE,	PERRIN AGLEAN."
" VULIJ,	

"To the citizens composing the Constitutional Society, sitting at London."

"The Society of the Friends of Liberty and Equality, sitting at Laon, the head of the department of the Aisne, to the patriotic society of London, called the Society for Constitutional Information.

"Generous Republicans; — The philanthropic gift that you have presented to the warriors of France, announces, with energy, the great interest that you take in the sacred cause which they are defending.

"Accept the thanks of a society that does honour to itself in esteeming you.

"The time, perhaps, is not far distant, when the soldiers of our liberty shall be able to testify their gratitude to you. Then their arms, their blood itself, shall be at the service of all your fellow-citizens, who, like you, acknowledge no rights but the rights of man. Then France and England shall form together a treaty of union as lasting as the course of the Seine and the Thames. Then there, as here, there shall exist no other reign but that of liberty, equality, and friendship. May this day of felicity and glory soon shine upon the horizon of two nations, formed to admire each other.

"2nd December, 1792.

"First year of the French Republic.

"The members composing the Committee of Correspondence.

"HAMAIDES, BAWDRY, DEMONCIAUX."

The envelope is directed "To the patriotic society of London, called the Society for Constitutional Information, at London, England."

"First year of the French Republic.  
6th December, 1792.

"The Society of the Friends of Liberty and Equality, established at Maçon, department of the Saone and Loire, to the Constitutional Society of London.

"Yes, citizens, our brethren and friends, the 10th of August, 1792, shall be distinguished in the annals of the world as the day of the triumph of liberty.

"Our first revolution did but show to us the salutary principles of the imprescriptible rights of man: all, except the unprincipled, and the enemies of humanity, adopted them with enthusiasm. It was then that we drew ourselves into a society, in order the to impress them upon ourselves, and teach them to follow."

"Our first constitution had consecrated them, but had not always taken them for its base. The dominion of the passions, the force of habit, the impression of prejudices, and the power of the intrigues employed in our Constituent Assembly, found the secret to preserve sufficient authority to our tyrants, to extinguish, at some time, the sacred rights of nature, and to re-establish despotism on its throne of iron.

"But royalty, thus preserved, was not content with the victory that had secured to it the greatest number of the corrupt persons who surrounded it. It was impatient to reap the fruits that it appeared to promise itself. But its too great eagerness has hastened its ruin, and secured the triumph of reason.

"The French, proud of their new existence, soon perceived the fault of their first legislators, became sensible of the imperfection of its first laws—saw that they made a surrender of the rights of liberty and equality which they had embraced, they roused themselves anew to demand, at length, laws impartial and humane.

"From thence the necessary day of the tenth of August 1792. From thence a second revolution, but a revolution which is only the completion of the first, which has received our vows and our oaths, and which we will bless for ever, if it leads us, as we hope it will, to the happiness of the nation, to the constant maintenance of liberty and equality.

"Let intriguers, tools, and tyrants calumniate us; we despise them too much to condescend to answer them, and seek for their esteem.

"That which flatters us, is, the interest that you take in our labours, your attention to contribute to the success of our arms; we desire your esteem, we are proud of your approbation.

"We smile at the expression of the sentiments that you manifested to our representatives: we behold a nation of brethren rouse itself to support the cause of humanity: we behold the brave English adopt our principles, become our friends; we say to ourselves with pleasure, soon will they become our allies, and, uniting our efforts, we shall go on to deliver the universe from the yoke of tyrants—to restore the nations to reason and nature.

"That day is not far distant, if we may rely on our own courage, and the hope of your alliance.

"In the mean time receive our thanks, and correspond with brethren who set a high value upon your esteem.

(Signed) "LAVENIE, the younger president.

"J. B. REPEY, secretary to the society.

"DESSAU, secretary."

(In English in the original.)

"To the President of the society called the Society for Constitutional Information (by way of Calais), London."



*Thomas Wood* sworn.—Examined by *Mr. Garrow*.

Do you know *Mr. Frost's* hand-writing?—Yes; I have seen him write very often.

Look at that paper, and tell me whether you believe it to be *Mr. Frost's* hand-writing?

—Yes; I have no doubt about its being his hand-writing.

*"Paris, September 20th, 1792.*

"My dear Sir;—We arrived safe at this place yesterday to dinner; and, having met with no interruption on our journey, by night or by day, since we left Dover, except delay at Abbeville, Amiens, Clermont, and for want of horses, which the emigrants have wore out. Paris is now quiet, though it was illuminated, and the guards under arms from an apprehension of the people visiting the Temple to destroy Louis and his wife: the latter braves it, and will to the last; the former is insensible to his fate. The night, however, passed over in silence; and this evening the Convention will meet, and the National Assembly take their leave. About three hundred of the present assembly are returned to the Convention; the rest retire with execrations. *Mr. Paine* made his appearance in the National Assembly last night, which excited great curiosity among both men and women, and occasioned no small interruption. The first who embraced him was *Cambon*, who last night made a most excellent speech on the subject of the jewels, plate, &c. found in the churches, &c. in order to have them melted, as hitherto most infamous use had been made of them, by pawning them to the Jews, &c. to raise money for the emigrants. This motion was become the more necessary, as, a few nights ago, that is, on the morning of Tuesday, 40 men armed, entered the *Thuileries*, and carried off 30 millions of livres. The gates of Paris have been shut, and a search made: more than a million has been found. The treachery of Louis is so great, that the indignation of the people cannot be wondered at. He has anticipated the civil list a year and a half, and mortgaged his domains for six years. The bankers, and others who have advanced the money, will be ruined. *Byde* is gone. I will inform myself, between this and Monday, of every thing that is passing, and by that post send you a particular account of the 10th, the truth of which is not yet known in England, or, if known, concealed or misrepresented to blacken the revolution. Without the affair of the 10th, liberty was over. I am sorry to learn that the conduct of your friend *gen. M——* is not well spoken of. He was in the *Thuileries* all night of the 9th; and he and captain *Sampson* left about eight o'clock in the morning; and there is no doubt but he regulated the troops, and disposed them in order to attack. His conduct was winked at, out of respect to the English. He is now with *Dumourier's* army, which is 80,000 strong; and it is ex-

pected that an account will arrive this day of an engagement between him and the Prussians, as general *Kellerman* had, by a forced march over the mountains, joined him when he last wrote; within nine miles of which, the Prussians being informed of his approach, made an attack before the junction, and was repulsed. There are 500,000 troops now upon the frontiers. The language of the king of P—— is changed from that of threats to soothing; and he has artfully endeavoured to persuade the troops, that, as they are unable to defend themselves, and are betrayed by their generals, they had better lay down their arms. Few Prussian deserters have come over; but a great number of Austrians have entered. I have this moment read a letter from general *Money*, who expects every moment the attack of the Prussians. They have been joined by a great body of Brabanters, who have all along fought with uncommon bravery. The post is going out, and compels me to hasten to a conclusion. We dine to-day with *Pethion*. *Paine* has entered his name on the roll of parliament, and went through the forms of office with a great deal of nonchalance. We are well lodged, and, besides our bed-rooms, have an entertaining room for members to be shown into: several have called this morning. We are to give ten livres a day. The clerk of parliament has this moment been here—*Mr. Rose*, a relation of the notorious *George Rose*. I have nothing more to add, but that *Mr. Paine* is in good spirits; and indeed the flattering reception he has met with all through France, could not fail of it. It is more than I describe. I believe he is rather fatigued with the kissing. *Pethion* still retains his popularity. *Robespierre* has been attacked in the primary assembly, and told that he was the most dangerous man in France, and that a good citizen ought to blow his brains out. The English, I understand, showed great pusillanimity. Tell *Vaughan*, his friend *Losh* was, for three or four days before he left the hotel, very uneasy, and thought he should never see England again. *Mr. Watt* is here, and very civil. 'What is become of *Dr. Maxwell*?' is the cry. Always your's,  
J. F."

Addressed, "*John Horne Tooke, esq.*"

*Mr. Garrow*.—Now I will give some account of what these transactions of the 10th of August were, which are stated as necessary to liberty.

*Mr. Garrow* to *Mr. Huskisson*.—Were you in Paris on the 10th of August, 1792?—Yes, I was.

I believe you resided in the house of the British ambassador, lord *Gower*?—I did.

Had you been in Paris any time previous to the 10th of August?—From the month of July, 1790.

Be so good as to state shortly, what the facts were, which are described as the trans-

actions of the 10th of August, as they relate to transactions at Paris and Versailles, as they fell under your observation.—On the 10th of August I had an opportunity of observing very little, as I did not go out during the contest that took place in the course of that morning.

What was the nature of that which you describe as a contest, which kept you at home?—I heard a firing, and I saw smoke. I saw afterwards some of the out-buildings on fire at the palace; and I saw people running with their arms towards that part of the town.

What did you find had occasioned the firing; from what had it proceeded, the firing of arms, and the firing the buildings?—The firing of arms, I understood, proceeded from persons who wished to enter the palace, and also from those who opposed their entrance.

Was the palace, at that time, the residence of the king and his family?—I believe it was.

Can you describe any other transactions of that day, which came within your knowledge at the moment, or that came within your observation afterwards?—I saw, in the evening of that day, the governor of the palace, who came to my lodgings to shelter himself; and he described to me ———

In point of fact, the governor of the palace took shelter at your house?—He did. I went out in the evening, about nine o'clock, and I attempted ———

Mr. Garraw.—I submit to your lordship, that what the governor of the palace said at the time of taking shelter at the house of this English gentleman, is evidence.

Lord Chief Justice Eyre.—Do not let us go into every particular of a transaction at that distance.

Mr. Baron Hotham.—It is a history that is pretty publicly known.

Mr. Garraw.—You were saying that you went out in the evening?—Yes, about nine o'clock. I did not see any thing worth mentioning. I went towards the bridge that leads to the palace, where I was stopped by some sentinels from approaching nearer. I saw the out-buildings of the palace were then burning.

Lord Chief Justice Eyre.—The whole of it is, that there was a great tumult, a great slaughter, and that the king and his family sheltered themselves at the Convention, and were not restored to their liberty afterwards.

Mr. Garraw.—Just so—we are perfectly content to take it so.

Mr. Huskisson.—Every body knows that.

Mr. Garraw.—I believe every body knows, except the jury.

Mr. Attorney General.—I propose to read two letters, found in the possession of Mr. Horne Tooke, and draughts of two letters in Mr. Tooke's hand-writing.

Mr. William Woodfall.—Examined by Mr. Attorney General.

Do you know in whose hand-writing that

paper is?—I think it, by the character, to be Mr. Tooke's.

Have you seen him write?—I have, and believe it to be his, though I did not see him write it.

Look at this paper?—The same hand-writing.

James Thornton sworn.—Examined by Mr. Garraw.

Look at these four papers—see if you find your name upon these, and whether you seized these?—Upon these two only.

John Thompson sworn.—Examined by Mr. Garraw.

Are you one of his majesty's messengers?—No; I am clerk to the public-office in Lambeth-street, Whitechapel.

Were you present when these papers were found?—Yes; they were found at Mr. Horne Tooke's house at Wimbledon.

Was that after Mr. Tooke was taken into custody?—Yes, it was.

Where were they found?—Some were found in bureaux, and some in other places.

Who were present when they were found?—Mr. Frost and Mr. Vaughan.

Did they attend as friends of Mr. Tooke?—They did.

You got the keys, and you found these papers?—These two papers (the two not spoken to by Mr. Thornton) are marked by me, as found in the house of Mr. Tooke.

[Mr. Huskisson delivered into court, English translations of the French papers.]

Draft of a Letter from Mr. Tooke to the Mayor of Paris, in Mr. Tooke's hand-writing.

"Sir;—You are in no want of friends in England, who ardently wish to be useful to French liberty. But we wish to know some one of your friends, who resides in London, in whom you have an entire confidence, and to whom we may give our money, in the assurance that it will be remitted to you without delay, and without fraud. Mr. Frost, to whom I entrust this letter, is going to set out immediately with Mr. Paine, for Paris, and allows me no time for ceremony, if it were necessary. I request you to send me the name of some Frenchman, in London, merchant, or other, for the purpose above mentioned. We can now begin the public contribution towards our patriotic gift with 1,000*l.* sterling; and I have no doubt but it will amount in time to several thousands.

"If you consider this step in the same point of view that we do, you will see in it much use to the common cause of England and France. I entreat you to give me your sentiments on the subject, and to point out to me the means by which I may be useful to you.

J. HORNE TOOK.

"Brothers and Friends;—Liberty is a bond which ought to unite all men, and which will



one day unite all nations. These are preparing those great revolutions which disseminate useful truths. Thus the philosophical societies make all despots tremble. You have the glorious advantage of deserving the hatred of your government. The league of tyrants will never be able to resist the power of reason. Continue your precious labours—employ yourselves in the enfranchisement and the happiness of the human race. You will find in the French, worthy fellow labourers.—Honoured by the sentiments which you express for me, receive the assurances of my lively gratitude. Your fellow citizen,

“ 6th October, first year of the  
French Republic.  
“ Society of the  
Friends of the Revolution.”

“ *Paris, the first of October, 1792,  
the first year of the French Republic.*

“ I have received, sir, the letter which you have done me the honour of addressing to me of the 13th ult. in which you announce to me, that we are in no want of friends in England, who ardently wish to be useful to the French liberty; and that it would be necessary that I should point out to you some person resident in London, entitled to full confidence, and to whom you might remit, in full safety, the funds resulting from the patriotic gift which your countrymen are willing to contribute. You cannot, sir, doubt of my eagerness to second views so useful, which will for ever merit our gratitude, will rivet the links of fraternity between us, and must produce the greatest advantages to England and France. I shall have the honour, sir, of sending you, without delay, the name of the person in whose hands you may place the funds which you destine to the support of a cause which, in truth, is that of all people who cherish liberty. For the mayor of Paris,

“ BONSCHER RENE, *Off. municipal.*

“ Received at Wimbledon,  
Wednesday, Oct. 9.”

Indorsed “ 1st October, 1792.—Copy of Letter from Pethion to Tooke.”

“ Mr. President; Thirty years ago I travelled in France, when she was enslaved. I received a thousand civilities, and I was chagrined at her destiny. I now come to acquit myself of a small part of my former debt to France, in a state of freedom. I entreat her to accept these 4,000 livres, and to apply them to the expenses of the war against all the tyrants who have dared, or shall dare, to attempt against her liberty, without excepting any one, were it even of my own country. As to the debt of honour newly contracted as a French citizen, it will be the object of the rest of my life to acquit myself of it faithfully and with zeal.”

Indorsed “ Draft of an Address to the President of the French Convention,” in Mr. Tooke's own hand-writing.

Mr. Attorney General.—I now propose to read some entries, from the books of the Society for Constitutional Information, which relate to the speeches of Roland, St. Andre, and Barrère, mentioned in those resolutions, the substance of which I stated to your lordships and the jury yesterday.

[They were read.]

“ At a meeting of the Society for Constitutional Information, held at the Crown and Anchor, Strand, Friday, 18th January, 1793,

“ PRESENT,

“ Lord Sempill in the chair,

“ Mr. J. H. Tooke, Mr. Symonds, Mr. Fitzgerald, Mr. Bonney, Mr. Rutt, Mr. John Martin, captain T. Harwood, count Zenobio, Mr. Bryant, Mr. J. Williams, Mr. Wills, Mr. Chatfield, Mr. Sharpe, Mr. Reader, Mr. G. Williams, Mr. Holcroft, Mr. B. Cooper,

“ Resolved; — That citizen St. Andre, a member of the National Convention of France, being considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this society.

“ Resolved, That the said resolution be published in the papers.”

“ At a meeting of the Society for Constitutional Information, held at the Crown and Anchor Tavern, Strand, Friday, 25th January, 1793,

“ PRESENT,

“ Mr. Jennings in the chair,

“ Lord Sempill, capt. Tooke Harwood, Mr. Bonney, Mr. W. Sharp, Mr. Symonds, Mr. Hull, Mr. Bryant, Mr. John Martin, Mr. H. Tooke, Mr. Fitzgerald, Mr. Turnbull, Mr. J. Williams, Mr. Wardle, Mr. Satchell, Mr. Sturch, Mr. Kydd, Mr. Bailey, Mr. Chalk, Mr. Margat, Mr. Hardy, Mr. Holcroft, Mr. G. Williams, Mr. White, Mr. Chatfield,

“ Resolved; — That citizen Barrère, a member of the National Convention of France, being considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this society.

“ Resolved, That the said resolution be published in the newspapers.

“ Resolved, That citizen Roland, being also considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this society.

“ Resolved, That the said Resolution be published in the newspapers.”

“ At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 1st of February, 1793,

PRESENT,

Mr. Fitzgerald in the chair,

" Mr. J. H. Tooke, Mr. Wills, Mr. Cooper (Manchester), lord Sempill, Dr. Kentish, Mr. Tuffin, Mr. Hull, Mr. John Martin, Mr. Balmanno, Mr. Banks, Mr. Jennings, Mr. Holcroft, Mr. Bailey, Mr. Sharpe, Mr. Miller, Mr. G. Williams, Mr. Parkinson, Mr. Wardle, Mr. B. Cooper, capt. T. Harwood.

" Read, a circular Letter from the Sheffield Society for Constitutional Information.

" Resolved, That a committee be appointed to report an answer.

" Resolved, That Mr. Tooke, lord Sempill, Mr. Holcroft, Mr. Tuffin, Mr. Fitzgerald, Mr. Cooper (Manchester), Dr. Kentish, and capt. Harwood, be the committee.

" Resolved, That the said committee, meet at half past three o'clock on Friday next, at this place.

" Resolved, That the speeches of citizen St. André, and citizen Barrère (associated honorary members of this society), as given in the Gazette Nationale ou Moniteur Universelle, of Paris, on the 4th, 6th, and 7th, of January, 1793, be inserted in the books of this society.

" Resolved, That the said resolution be published in the newspapers.

Mr. Garrow (to Mr. Huskisson).—During your residence in Paris, and after you came to this country, were you in the habit of seeing the paper called the Moniteur Universelle.—I was.

Look at these printed papers and say, whether from their appearance you take them, to be the French papers of those dates.—They have every appearance of being similar to those which I took in, while at Paris, and afterwards in London.

Joseph Deboffe sworn.—Examined by Mr. Garrow.

You are I understand a bookseller?—Yes.

Where is your shop?—In Gerrard-street, Soho.

Your shop was chiefly employed in selling foreign publications I believe?—Yes, and not only foreign publications, but all sorts of works, and as to the newspapers which I sold, they were the same that came through the channel of the post office, and by others.

You sold French newspapers?—Yes.

And these French newspapers came by the channel of the post from France, and by the channel of private conveyance?—Great part of them came from Paris, by the packet, then sent to Millet and Fector, and then forwarded by the mail coach. I received no papers, but what were duly opened at the Custom-house at Dover.

You are a native of France, I perceive?—No, I beg your pardon, I am a native of Switzerland.

You are acquainted with the French language?—Yes.

You probably have had many thousand French newspapers pass through your hands?—I have.

Whether you are acquainted with that paper the Nationale Gazette, or Universelle Moniteur?—Perfectly well, I have had a great many of them.

Did you ever know of any of these French papers with the French titles, and in that shape, reprinted in England?—I have never known it.

From the paper, from the type, and from the general appearance of these papers which you hold in your hand, comparing them with the recollection of those which passed through your hand, in the way of your trade, do you believe these to be the French Moniteur, published in France, and conveyed to this country, in the way you have stated?—Perfectly so, and more than that, there are many connexions in London, through which the veracity of this, might be compared.

We are not permitted to compare them with others; is that French paper, and is it printed with French types?—It is the real Paris paper, printed in Paris by Mr. Pilnewood, who is the proprietor of it. I have received them immediately from Mr. Pilnewood's own hands.

Mr. Attorney General.—Then I offer to your lordship the evidence of these three papers, one dated the 4th, another the 6th, and another the 7th of January, 1793, upon the evidence now given, which contain speeches of citizen St. André, and citizen Barrère.

Mr. Erskine.—If your lordship thinks these papers may be taken as evidence, I have no interest in disputing it, I only wish to have the sanction of the Court; I am not anxious about it.

Lord Chief Justice Eyre.—I think it is a reasonable evidence of their being what they are described.

[Mr. Huskisson delivered into Court English Translations of Extracts from the said Papers.]

Mr. Erskine.—Is there the whole of it?

Mr. Attorney General.—No; only extracts.

Mr. Huskisson.—The reading the whole would take up full two hours.

[The extracts read.]

" Extract from the speech of Jean Bon St. André, taken from the Moniteur of the 4th of January, 1793.

" Translation.

" If you have to decide on the fate of Louis, it is because you are a revolutionary assembly, created by the French nation, in a state of insurrection."

" Extracts from the speech of Barrère, taken from the Moniteurs of the 6th and 7th of January, 1793.



"Translation.

"The question submitted to your deliberation is of the highest importance to public order, of the greatest difficulty in legislation, of the utmost delicacy in politics, absolutely necessary to liberty, and connected with whatever is held most sacred by the nation.—The calmness which has prevailed in the deliberations, for some days past, forbodes that it will be decided according to justice and reason.—It will not escape history, this contrast between kings, who often, amidst the dissipation of courts, signed proscriptions, or the death warrant of a thousand citizens; and the representatives of the people, who deliberate with wisdom and caution on the punishment of a single despot.—It is the destiny of kings to be the occasion of the calamities of the people, whether they remain on their thrones, or whether they are precipitated from them."

"The people of Paris, by making an holy insurrection against him [the king] on the 10th of August, deprived him of his character of inviolability.—The people of the other departments applauded this insurrection, and adopted the result of it.—The people have, therefore, already interposed to destroy the royal inviolability.—Louis was invested by the tacit consent of the people, with a constitutional inviolability; their tacit consent has deprived him of the same, and is therefore as lawful as the grant of it.—The inviolability of the king cannot be absolute; it is only relative, and for the end of maintaining the independence of the constituted authorities."

"The people is the sovereign.

"A convention differs from a legislature in this respect: a legislature is only a species of superintending magistracy; a moderator of the powers of government: a convention, on the contrary, is a representation of the sovereign.—The members of the legislative assembly acted, in August, upon these principles; and they declared, in their account of their motives for calling a national convention, that they saw but one measure which could save France; namely, to have recourse to the supreme will of the people, and to invite the people to exercise immediately that inalienable right of sovereignty, which the constitution had acknowledged, and which it could not subject to any restriction.—The public interest required, that the will of the people should be manifested in the opinion of a national convention, formed of representatives, invested by the people with unlimited powers. The will of the people is manifested by the opinion of this convention.—The convention being assembled, is itself that sovereign will which ought to prevail.—It would be contrary to every principle, if the expression of the general will did not reside in the convention alone.

"You are the representatives of the nation, which relies upon you for taking every mea-

sure of public safety, necessary to establish and secure liberty, and to proscribe tyranny, against which the nation has formed an holy insurrection.

"It is despotism when, in the ordinary and permanent establishment of a government, there is no separation of powers.—But is it not the very essence of a constituent body to concentrate, for the time being, all authority?—Is it not the very nature of a national convention to be the temporary image of the nation; to unite, in itself, all the powers of government, to employ them against the enemies of liberty, and to distribute them in a new social compact, called a constitution?—Behold that Constituent Assembly, which, though abominably calumniated at present, laid (in spite of the shameful revision of the laws) the first foundation of your liberty. Behold it alone, with its revolutionary genius; it broke through every impediment, exceeded its delegated authority, created its own powers, according to the exigencies of liberty, and to the wants of the people; destroyed all prejudices by the force of that public opinion to which it gave birth, obliterated all privileges, abolished all parliaments, changed the form of all property, as well as the sign of all value, and made a perjured king its prisoner.—Nothing was wanting to immortalize that assembly, but to have delivered France from the calamity of kingly government, and to have relieved you from the duty of judging the last of your kings.

"Invested, from your origin, with the most unlimited confidence by your fellow citizens, you hesitate in the first step.

"Am I then no longer in the midst of that national convention, whose honourable mission it was to destroy kings and royalty?"

Mr. *Erskine*.—I wish it to be understood, that these gentlemen are speaking in their place, as members of the National Assembly in France.

Mr. *Attorney General*.—I will explain the view with which I offer it.

Mr. *Erskine*.—You stated it very particularly in your opening.

Mr. *Attorney General*.—You see they are now speaking in their places, in the National Assembly in France.

Lord Chief Justice *Eyre*.—It is hardly worth debating; the purpose is so obvious, that it is impossible to be misunderstood.

[The following entry was read from the books of the Society for Constitutional Information.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor Tavern, Strand, Friday, 15th February, 1793,

"PRESENT,

"Mr. Reader in the chair,

"Mr. Frost, Mr. J. H. Tooke, Mr. Boney,

Mr. Symonds, Mr. Martin, Mr. Chatfield, Mr. Fitzgerald, Mr. Banks, Rev. Mr. Joyce, Mr. J. Williams, Capt. T. Harwood, Mr. Moore, Mr. G. Williams, Mr. Holcroft, Mr. Balmanno.

"Read the following letter from the Society for Constitutional Information, at Birmingham, requesting, that twelve of their members may be admitted associated members of this society.

"*Birmingham, Feb. 6th, 1793.*

"Friends and Fellow Citizens;—The members of the Society for Constitutional Information, established at this place, Nov. 20th, 1792, take the opportunity to lay before you our printed Address and Declaration, and our rules and orders, which we have adopted from the Sheffield Society, for our internal government.—And to show our justice, our moderation, and love to all mankind, we desire your advice and assistance, that the general mind of our society may be formed unanimously to the best and most likely mode of obtaining our long-lost rights as men free born, and as citizens by universal incorporation.

"The interested and bigotted supporters of the exploded system of corruption, are continually throwing obstacles in the way of all reform, and threaten us with rigorous prosecution, and exhibit all the engines of power and tyranny before us, for meeting to investigate the laws of our country, and endeavouring to obtain, in a legal and peaceable manner, the birthright of every Briton, viz. an equal representation of the people in parliament: notwithstanding which, numbers daily flock to the standard of liberty. We are determined, in spite of all base opposition, to persevere as we have begun in the good cause, till we have obtained the desirable end, a redress of our grievances.

"We sincerely think the cause is of God, and that it would go on without our interference; but who can stand by an idle spectator, and see our fellow-men struggling for us in the cause of liberty, and not have a wish to lend a helping hand in the humane and godlike work?

"We ardently and sincerely desire to become instrumental in so good and great a work, the cause of liberty, and of all mankind, both present and future.

"The grateful thanks of our society are given to Mr. Horne Tooke, major Cartwright, Mr. Erskine, and the rest of the members of the Constitutional Society for Information in London, for their firm and manly support and perseverance in our common cause of liberty and good-will to all mankind, and their steady purpose to obtain an effectual reform in the legislative house of the people, the Commons House of Parliament.

"Our society requests the favour of your admitting the following twelve persons, whose names are subscribed, to be enrolled members

VOL. XXIV.

of your society, for the purpose of corresponding with yours, and every other similar institution in the nation, for the better regulating our measures, and receiving instruction.

"Wishing you all the success your laudable undertaking deserves, we are, with sincerity, your fellow citizens and friends,

"(Signed)

"John Meer,	David Blair,
"John Kilmister,	Thomas Clark,
"George Hill, sen.	Timmins Nevill,
"John Kenrick,	William Beard,
"James Davy,	Thomas Hill,
"James Luckcock,	Benjamin Smith.

"Direct to George Hill, opposite the Fountain, Lower Temple-street, or to John Kenrick, Grocer, Colmore-row.

"To Mr. D. Adams, Secretary to the Society for Constitutional Information.

"Resolved, That the twelve members of the Birmingham Society for Constitutional Information, recommended in the said letter, be admitted associated members of this society.

"Resolved, That the said letter, and the election of the said twelve members, be published in the newspapers, exclusive of their names."

Mr. *Garrow*.—I propose now to read the answer of the Birmingham Society, dated 25th March, 1793, to this communication of the Constitutional Society.

Mr. *Thomas Maclean*.—I found this letter among Mr. Adams's papers.

[It was read.]

"*Birmingham, March 25th, 1793.*

"Sir;—At the request of the Society for Constitutional Information, I hereby acknowledge the receipt of your letter; whereby it appears, that your society have acceded to our request, by electing the persons, whose names you were furnished with, as associated members in your society; for which we beg you to accept our united thanks and best wishes, that your society may go on to accumulate a mass of true patriots, whose principles may not be subverted by interest, or conquered by fear.

"This society offers with gratitude their thanks and commendations to Horne Tooke, esq. for the present accompanying your letter, but more particularly for his zeal in the cause of freedom, which cannot be promoted but by the free use of the press, which we trust will never be restrained from Britons. Another letter accompanies this, containing a few particulars, which we doubt not you will peruse with pleasure. Will write you further on that subject shortly.—I am, &c,

[No Signature.] "—, sec.

[The following entries were read from the books of the Society for Constitutional Information.]



"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor Tavern, Friday, 15th March, 1793,

"PRESENT,

"Capt. Tooke Harwood in the chair.

"Mr. Balmanno, Mr. Kydd, Mr. Tooke, Mr. Martin, Mr. Fazackerly, Count Zenobio, Mr. Sharp, Mr. J. Williams, Mr. Bonney, Mr. Symonds, Rev. Mr. Joyce, Mr. Holcroft, Mr. Swainson, Mr. Banks, Lord Sempill, Mr. Wills, Mr. Parkinson, Mr. Bailey, Mr. Frost, Mr. G. Williams,

"Read a Letter from the Constitutional Society, at Sheffield, inclosing their resolutions of the 13th of February last.

"Resolved, That the secretary be instructed to return the thanks of this society to the Society for Constitutional Information, at Sheffield, for their communication, and to acquaint them, that this society perfectly agree with them in their sentiments, with respect to the calamities of war in general; and that they concur with them in thinking, that the thanks of the community at large are due to all those who have exerted themselves to prevent the present war.

"Ordered, That the treasurer repay to Mr. Frost sixty livres, paid by him at Paris, for the translation of two addresses to the National Convention of France.

"Resolved, That the thanks of this society be given to Joel Barlow and John Frost, for their conduct in the presentation of the address of this society to the National Convention of France; and that Mr. Frost be assured, that our regard for him is not lessened, but increased by the prosecutions and persecutions which his faithful and due discharge of that commission may bring upon him.

"Ordered, That this resolution be published in the newspapers."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, 22d of March, 1793,

"PRESENT,

"Mr. Symonds in the chair,

"Mr. Frost, Mr. Hull, Count Zenobio, Mr. Tooke, Mr. Wills, Lord Sempill, Mr. Bonney, Mr. Kydd, Mr. Satchell, Mr. John Martin, Mr. Ausell, Mr. Holcroft, Mr. Balmanno, Capt. T. Harwood, Mr. Parkinson, Mr. J. Williams, Dr. Kentish, Mr. Margarot, Mr. Hardy.

"Read a letter from the United Political Societies of Norwich.

"Resolved, That the consideration of the said letter be postponed till the next meeting."

Mr. Thomas Maclean.—I found this paper in Mr. Adams's house.

[It was read.]

"The United Political Societies of Norwich.

March 5th, 1793.

"Gentlemen;—It is with peculiar satisfaction, we are favoured with your correspondence (not merely because you are so, although you are better fitted to diffuse knowledge) but because you are embarked in the same magnanimous cause, which demands with alacrity the attention of every individual; and it is with the utmost regret we see so many, either from ignorance, or something worse, who are inimical to their own interest; for nothing contributes so much to support the oppressor, as the ignorance of the oppressed; for which purpose the flood-gates have been opened gradually, till, by degrees, the streams of corruption have nearly overflowed the land: such as bounty acts, borrowing, qualification, and septennial acts, besides standing armies, excise and tything laws, with various others too painful for reflection, without credit to the framers thereof, and without advantage to society. We do not presume to recapitulate these abuses for your information, but being too experimentally acquainted with them, we wish to find out a method of redress. At present we see a great propriety in universal suffrage, and annual elections, but we beg you will be obliging enough to inform us of what you have collected of the sense of the people by your correspondents. We have to inform you, that our worthy Corresponding Societies of London, have recently submitted three propositions for our investigation. First, whether a petition to parliament, or an address to the king, or a convention.

"Permit us briefly to state our views for your revival; and with respect to the first, we behold we are a conquered people. We have tamely submitted to the galling yoke, and resistance in the present circumstances is vain. We cannot act the man, and as necessity has no law, we think ourselves under that degrading necessity to state our grievances to the House of Commons, with a request for redress, and should they refuse to grant our reasonable petition, we have still got (no thanks to them) a formidable engine, that will convey the insult to the remotest parts of the kingdom. As to the propriety of the second we wish to submit to your superior judgment and should esteem it a favour to be informed of the result; for at present we are dubious of its good consequences. Lastly, a convention and oh! that the period were arrived!—but in the present state of affairs, alas! it's impracticable: yet this is the object we pursue and esteem any other means only in subordination to, and as having a tendency to accomplish that desirable end.

"We wish to be in unison with our brethren and fellow-labourers, and should be glad to any information as soon as it is convenient and we beg your advice whether it is necessary, as soon as possible, to collect signature to a petition for a real representation of the

people, and by whom to present it, whether Mr. Coke, Mr. Burch, or any of the Friends of the People; and whether it is attended with any expense. *Our members are both inimical to the business.*

"We can give you no accurate statement of the representation in our neighbourhood, only observe, that it is equally farcical here as elsewhere. To conclude, with united thanks for all favours received, wishing you health and success, and may heaven avert—

We subscribe ourselves, gentlemen—Your very obliged humble servants,  
(Signed) "J. Broughton.

"Note. Please to direct to J. Broughton, St. Mary's-church, Mr. Blake being no longer our secretary.

"We have between thirty and forty separate societies in Norwich, besides many in the country villages.

"Mr. D. Adams, No. 4, Tooke's-court, Chancery-lane, London."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, 29th March, 1793,

"PRESENT,

"Capt. Tooke Harwood in the chair.

"Mr. Symonds, Mr. Jennings, Mr. Hull, Mr. Martin, Lord Sempill, Mr. Bryant, Mr. Parkinson, Mr. Frost, Rev. Mr. Joyce, Mr. Gay, Mr. J. Williams, Mr. G. Williams, Mr. Holcroft, Mr. Banks,

"Resolved, That the consideration of the letter from the United Political Societies of Norwich, be deferred till next meeting."

Mr. Garraw.—At the meeting of the 22nd of March, the consideration of this letter was postponed; it was postponed at the next meeting; and at the next meeting it is again postponed, which shows the deliberation required for preparing the answer.

[The following entries were read from the books of the Constitutional Society.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, 5th April, 1793,

"PRESENT,

"Capt. Tooke Harwood in the chair.

"Mr. Tuffin, Lord Daer, Mr. Frost, Mr. Ausell, Mr. Bonney, Mr. Fitzgerald, Mr. Martin, Mr. W. Sharpe, Mr. Tooke, Mr. Kydd, Mr. Hull, Mr. Moore, Rev. Mr. Joyce, Mr. J. Williams, Mr. J. Cooper, Mr. Hardy, Mr. Balmanno, Lord Sempill, Mr. Wills,

"Resolved, That the consideration of the letter from the United Political Societies of Norwich, be postponed till the next meeting; and that Mr. Frost be requested to prepare an answer.

"Resolved, That a letter be written to Simon Butler and Oliver Bond,\* esqrs., expressive of the high sense we entertain of their exertions in the cause of freedom, and to assure them, that we consider the imprisonment they at present suffer on that account, as illegal and unconstitutional.

"The following letter was produced and read.

"To S. Butler and O. Bond, esqrs.

"Gentlemen;—It is not easy for men, who feel strongly and sincerely, to convey those feelings by letter. We therefore rely on your conceiving for us much of that which we are unable to express to you. We think, however, that we shall be guilty of a great omission, did we neglect the opportunity of sending you by Mr. Hamilton Rowan,† the honest tribute of our esteem and admiration, for your brave and manly resistance to the usurped jurisdiction of the Irish aristocracy.

"Permit us to offer you our thanks, and our grateful acknowledgment of your efforts, in what we consider as a common cause, while we lament our inability of proving ourselves useful in your defence. Although we are of different kingdoms, still we are but one people; and as the freedom of one continent has spread its influence to Europe, so on the other hand, we are persuaded, that the establishment of despotism in Ireland, must end in the slavery of Great Britain. But the light of liberty is not confined to one shore, or one latitude.

"We know that it is easier to admire than to practise those virtues that tend to the public benefit.

"Yet so long as the exertions of a few courageous men must influence the minds of at least the independent and thinking part of the community, we are assured that their labour is not fruitless. We trust, therefore, the time will soon arrive, when the abuse of power in either nation, will have no other consequence than the ruin of those who have committed that injustice. We hope, and we doubt not of soon seeing the day, when the post of honour shall be no longer that of obloquy and punishment; but when those who have risked their liberty and fortune in the cause of their countrymen, may find protection in the undisputed, uninterrupted exercise of trial by jury, with a full and adequate representation of the people in parliament.

"Resolved, That the said letter be signed by the chairman and secretary; and that Mr. Hamilton Rowan be requested to convey the same to Mr. Butler and Mr. Bond."

\* See the proceedings against them before the House of Peers of Ireland for a breach of privilege, inserted in the trial of Bond for high treason, A. D. 1798, in this Collection post.

† See his trial for a seditious libel, *ant*?, Vol. XXII, p. 1033.



"At a meeting of the Society for Constitutional Information, held Friday, 12th April, 1793, at the Crown and Anchor Tavern, Strand,

"PRESENT,

"Mr. Christopher Hull in the chair,

"Mr. W. Sharpe, Mr. Horne Tooke, Mr. J. Williams, Mr. Parkinson, Mr. Frost, Mr. Symonds, Mr. Campbell, Mr. Martin, Mr. Reader, Mr. Gay, Mr. Vaughan, as one of the committee of French subscription, Mr. Banks, lord Daer, captain Harwood, Mr. Balmano, Mr. Holcroft, Mr. Hardy, Mr. Chatfield.

"Mr. Frost read an answer (directed to be prepared by him) to the letter received from the United Political Societies in Norwich.

"Resolved, That the said answer be sent by the secretary to the secretary of the said societies."

Mr. Thomas Maclean.—I found this paper at Mr. Adams's.

[It was read.]

"Sir;—We have to acknowledge, with great satisfaction, the letter which you favoured us with, dated the 5th instant, relative to the most desirable of all other objects, the reform of our parliamentary representation. The honour you do us in supposing that we are better fitted than yourselves for the promotion of political knowledge, we must disclaim; because we observe, with the greatest pleasure, that our country correspondents have too much zeal and information to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or elsewhere throughout the nation. In our sincerity for the good of our country, we trust that we are all equal; and as such we doubt not of our ultimate success.

"We see with sorrow the existence of those evils, which you so justly represent as the streams of corruption overflowing this once free and prosperous country. We see with surprise and abhorrence, that men are to be found both able and willing to support those corruptions. It is however no small consolation to find, that others are not wanting in every part of the nation of an opposite character, who are ready to remedy, by all laudable and honourable means, the defect in our representation, the usurped extension of the duration of parliaments, and other grievances such as you notice in your letter.

"That the constitution of England has no more of that character it once possessed; that the supposed democracy of the country has become a matter of property and privilege; and that we have therefore no longer that mixt government which our adversaries are praising, when they know it is no longer in our possession, are facts notorious and indisputable. Where then are we to look for the remedy? To that parliament of which we

complain?—To the executive power, which is implicitly obeyed, if not anticipated in that parliament?—Or to ourselves, represented in some meeting of delegates, for the especial purpose of reform, which we suppose you understand by the term, CONVENTION?

"It is the end of each of these propositions that we ought to look to; and as success in a good cause must be the effect of perseverance, and the rising reason of the time, let us determine with coolness, but let us persevere with decision. As to a Convention, we regard it as a plan the most desirable and most practicable, so soon as the great body of the people shall be courageous and virtuous enough to join us in the attempt. Hitherto we have no reason to believe that the moment is arrived for that purpose. As to any petition to the crown, we believe it hopeless in its consequences. With respect to the last of your proposals, we are at a loss to advise. If the event is looked to in the vote which may be obtained from that body to whom the petition is to be addressed, which of us can look to it without the prospect of an absolute negative? In this point of view, therefore, it cannot require a moment's consideration. But if we regard the *policy* of such a petition, it may, in our apprehension, be well worth considering as a warning voice to our present legislators, and as a signal for imitation to the majority of the people. Should such a plan be vigorously and generally pursued, it would hold out a certainty to our fellow-countrymen, that we are not a handful of individuals unworthy of attention or consideration, who desire the restoration of the ancient liberties of England; but, on the contrary, it might bring into light that host of well-meaning men, who in the different towns and counties of this realm are silently but seriously anxious for reformation in the government. We exhort you with anxiety to pursue your laudable endeavours for the common good, and never to despair of the public cause.

[No Address.]

"We are, &c."

Mr. Garrow.—My lord, from the contents of this paper, we state it to be the draft of a letter prepared by Mr. Frost, referred to in the last resolution read.

Lord Chief Justice Eyre.—You have given no evidence of the hand-writing of this paper.

Mr. Garrow.—No, I have not. I produce it merely as being found in the possession of Adams, the secretary to the Society for Constitutional Information. I will now put into court the letter actually sent, which was found in the possession of the secretary to the Norwich Society. It is dated, "Society for Constitutional Information, London, 15th April, 1793, signed by order, in the name of the Society for Constitutional Information, D. Adams, secretary," and addressed "Mr. J. Broughton, secretary to the United Political Societies, Norwich."

"Society for Constitutional Information.

"London, 15th April, 1793.

"Sir;—We have to acknowledge with great satisfaction the letter which you favoured us with, dated the 5th instant, relative to the most desirable of all other objects, the reform of a parliamentary representation. The honour you do us in supposing that we are better fitted than yourselves for the promotion of political knowledge, we must disclaim; because we observe with the greatest pleasure, that our country correspondents have too much zeal and information to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or elsewhere throughout the nation.

"In our sincerity for the good of our country, we trust, that we are all equal, and as such we doubt not of our ultimate success.

"We see with sorrow the existence of those evils, which you so justly represent as the streams of corruption overflowing this once free and prosperous country. We see with surprise and abhorrence, that men are to be found both able and willing to support those corruptions. It is however no small consolation to find, that others are not wanting in every part of the nation of an opposite character, who are ready to remedy, by all laudable and honourable means, the defect in our representation, the usurped extension of the duration of parliaments, and other grievances such as you notice in your letter.

"That the constitution of England has no more of that character it once possessed, that the supposed democracy of the country has become a matter of property and privilege, and that we have therefore no longer that mixt government which our adversaries are praising, when they know it is no longer in our possession, are facts notorious and indisputable. Where then are we to look for the remedy? To that parliament of which we complain? To the executive power which is implicitly obeyed, if not anticipated in that parliament? Or to ourselves, represented in some meeting of delegates for the especial purpose of reform, which we suppose you understand by the word CONVENTION?

"It is the end of each of these propositions that we ought to look to; and as success in a good cause must be the effect of perseverance, and the rising reason of the time, let us determine with coolness, but let us persevere with decision.

"As to a Convention, we regard it as a plan the most desirable and most practicable, so soon as the great body of the people shall be courageous and virtuous enough to join us in the attempt. Hitherto we have no reason to believe that the moment is arrived for that purpose. As to any petition to the crown, we believe it hopeless in its consequences. With respect to the last of your proposals, we are at a loss to advise. If the event is looked to in the vote which may be obtained from

that body to whom the petition is to be addressed, which of us can look to it without the prospect of an absolute negative? In this point of view therefore it cannot require a moment's consideration. But if we regard the policy of such a petition, it may, in our apprehension, be well worth considering as a warning voice to our present legislators, and as a signal for imitation to the majority of the people. Should such a plan be vigorously and generally pursued, it would hold out a certainty to our fellow-countrymen, that we are not a handful of individuals unworthy of attention or consideration, who desire the restoration of the ancient liberties of England; but, on the contrary, it might bring into light that host of well-meaning men, who in the different towns and counties of this realm are silently but seriously anxious for a reformation in the government.

"We exhort you with anxiety to pursue your laudable endeavours for the common good, and never to despair of the public cause.

"Signed by order, in the name of the Society for Constitutional Information,

"Took's Court, "D. ADAMS, sec."  
16th April, 1793."

Addressed, "Mr. J. Broughton, secretary to the United Political Societies, Norwich."

Mr. James Walsh sworn.—Examined by Mr. Garraw.

Did you execute any warrant for the purpose of apprehending Mr. Isaac Saint, at Norwich, the secretary of the Constitutional Society there?—I did not; but I was present when it was executed.

Did you see any papers seized?—I seized them myself.

Did you put your name upon them?—I did. Is this one of the papers you seized there?—It is.

[The following entries were read from the Books of the Society for Constitutional Information.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 25th October 1793,

"PRESENT,

Mr. Bryant—in the chair,

"Count Zenobio, Mr. J. H. Tooke, Mr. Sinclair, Mr. Alexander Wills, Mr. Holcroft, Mr. G. Williams, Mr. Balmanno, Mr. Special, Mr. Rutt, Mr. Chatfield, Mr. Ausell, Mr. Wardle, Mr. Kydd, Mr. Harrison, Mr. Martin, Mr. Fitzgerald, Mr. Hardy, Mr. Margat, Mr. Hull, Mr. J. Williams, Mr. Benjamin Cooper,

"Mr. Sinclair read a letter, with an address from Mr. Skirving secretary to the convention of the Friends of the People in Scotland, to Mr. Hardy, secretary to the London Corresponding Society.



"Resolved, That an extraordinary general meeting of this society be called for Monday next at the Crown and Anchor tavern, at six o'clock in the evening, to consider of the utility, and propriety of sending delegates to a convention of delegates of the different societies in Great Britain, to be held at Edinburgh, for the purpose of obtaining a parliamentary reform.

"Resolved, That the substance of the motion be inserted in the letter."

Mr. *Garrow*.—Before the next entry is read perhaps it will be convenient that I should put in the original draft of these instructions, as there are several material alterations.

Mr. *Daniel Adams*.—Examined by Mr. *Garrow*.

Look at that letter, and state whether that is your signature?—It is.

In whose hand-writing is the letter?—My own.

The whole of it is in your own hand-writing?—Yes.

Look at this other paper, are these the instructions, which were originally prepared for the delegates upon which your entry is afterwards made?—I cannot take upon me to say that, from the length of time.

This was found among your papers we have heard?—Yes.

What do you take that paper to be?—I should not know it but from my own hand-writing at the bottom,—I should not know it to be the same otherwise.

Look at it—Do you believe it to be an original minute, prepared for the purpose of being transcribed into the book of the society?—I do not know it for any other reason—here are a vast many interlineations which I cannot bring to my recollection at all.

It was a paper you were afterwards to transcribe into your book?—It appears like a paper I was to transcribe; there are a great many interlineations in it.

Mr. *Erskine*.—Can you venture to give any thing like a distinct account of how that paper came to be so interlined as it is now?—I cannot.

Mr. *Erskine*.—Nor can you tell whether that was given to you for the purposes of insertion, but that it was so obliterated that you were obliged to make another copy?—That I cannot tell.

Mr. *Garrow*.—Supposing that paper to agree with your fair transcript, should you believe then, that that is the paper which you transcribed fairly into the minute?

Lord Chief Justice *Eyre*.—That is reasoning him into a belief; if he has any recollection upon the subject very well; if he has not you must not argue him into a belief of it. —This is a paper which purports to be a rough draft of instructions, with considerable interlineations, and the paper that is in the book corresponds with the draught so interlined;—

there let it stand.—Do you know the hand-writing of the interlineations?—I do not.

[The Instructions read.]

"At an extraordinary general meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Monday, 28th October, 1793,

"PRESENT,

"Mr. Sinclair in the chair,

"Mr. Satchell, Mr. Martin, Mr. Special, Mr. Parkinson, Mr. J. T. Rutt, Mr. Hardy, Mr. Fitzgerald, Mr. Wills, Mr. Richter, Mr. J. Williams, Mr. Chatfield, Mr. Fawcett, Mr. Margarot, Mr. G. Williams, Mr. Wardle, Mr. Jennings, Mr. Holcroft,

"Read, addresses to the Friends of the People of parliamentary reform, signed by Mr. Skirving, secretary to the General Convention at Edinburgh.

"Resolved, That this society do send delegates to the ensuing convention, to be held in Edinburgh, for promoting a reform in parliament.

"Resolved, That two members of this society be elected as delegates to the said convention.

"Henry Yorke, Charles Sinclair, and John Richter, were proposed.

"Resolved That the said gentlemen be now ballotted for. The society proceeded to ballot accordingly, when Charles Sinclair, and Henry Yorke, were elected.

"Mr. Sinclair being present, accepted of the said office of one of the delegates.

"Resolved, That should either Henry Yorke, or Charles Sinclair, be prevented from accepting the delegation to the convention of delegates at Edinburgh, John Richter be appointed to fulfil that office.

"Resolved, That John Williams be requested to obtain the necessary information of Henry Yorke, and communicate it to the secretary.

"Mr. Sinclair being requested to quit the chair,

"Resolved, That Mr. Fitzgerald be called to take the chair,

"Resolved, That the secretary do deliver to the delegates, appointed by this society to represent them in the convention at Edinburgh, copies of the proceedings of the 25th, and 28th instant, by which they are appointed to that office.

*Instructions to the Delegates.*

"The Delegates are instructed, on the part of this society, to assist in bringing forward and supporting any constitutional measures for procuring a real representation of the Commons of Great Britain, in Parliament. That in specifying the redress to be demanded of existing abuses the delegates ought never to lose sight of the two essential principles, general franchise and annual representation, together

the unalienable right in the people to reform, and that a reasonable and known compensation ought to be made to the representatives of the nation, by a national contribution.

"That the delegates do punctually correspond with the society, for the purpose of communicating information, and of receiving such farther instructions as the exigency may require.

"Resolved, That the above be the directions to the delegates.

"Resolved, That seven guineas be allowed to each of the delegates for travelling, and a sum not exceeding three guineas per week, each, be allowed them during the sitting of the convention of delegates, and that a subscription be now opened for that purpose, and that the secretary be requested to receive the same.

"Resolved, That the proceedings of Friday, the 25th, and Monday, 28th, October 1793, be signed by the chairman and secretary.

"Resolved, That the secretary be requested to write to the different societies with which this society is in correspondence, informing them that the London Corresponding Society, together with this society, have elected delegates to the convention of delegates, to meet at Edinburgh on the 29th inst. and to request their concurrence to this important measure."

[Mr. Garrow pointed out to the Court, the variations between the rough draught, and the instructions as finally adopted.]

[Copy of the rough draught.]

"The delegates are instructed on the part of this society, to assist in bringing forward any petition or petitions to the House of Commons, for the purpose of procuring an inquiry in the said House, into the state of the representation of the Commons of Great Britain in parliament. That they shall also demand in such petition or petitions, a specific remedy for the past, present, and possible abuses, in the *present* system of representation, and an avowal of the right of eternal reform. That in specifying the principles upon which redress ought to be demanded, the delegates have particular relation to those expressed in Mr. Pitt's speeches, before he was a placeman: in the duke of Richmond's letter to col. Sherman, before he was a minister; in Mr. Flood's speech, upon his motion for a reform in parliament; but above all, in the constitutional strictures, contained in the defence of John Horne Tooke, at the suit of Charles James Fox, in an action for debt. And that the delegates do demand a right of voting for members of parliament, in favour of all persons not infants, paupers, lunatics, placemen or pensioners. That voting ought to be only in the places or districts of the residence of the voter. That the time of election ought to be very short, and the collecting the votes be made in as many different places in a district at once, as may be conveniently and accurately

taken; but above all, that the duration of parliament ought to be annual. And that a reasonable compensation ought to be made by a national contribution to the members of the parliament.

"That the delegates do punctually correspond with the society, for the purpose of receiving farther instructions, as the exigency may require.

"Resolved, That these be the directions to the delegates.

"Adjourned to Friday next."

[Copy of the Instructions as finally adopted.]

"Resolved, That the following be the directions, to the delegates :

"The delegates are instructed on the part of this society, to assist in bringing forward, and supporting any constitutional measures, for procuring a real representation of the Commons of Great Britain in parliament. That they shall also demand a remedy for the abuses in the present system of representation. That in specifying the redress to be demanded of existing abuses, the delegates ought never to lose sight of the two essential principles, general suffrage and annual representation, together with the unalienable right in the people to reform. And that a reasonable and known compensation ought to be made to the representatives of the nation by a national contribution.

"That the delegates do punctually correspond with the society, for the purpose of communicating information, and of receiving such farther instructions as the exigency may require.

"Adjourned to Friday next."

[The following entries were read from the books of the Society for Constitutional Information.]

"At a general meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 17th of January, 1794,

"PRESENT,

"Mr. John Horne Tooke in the chair,

"Mr. Sharp, Mr. Gerrald, count Zenobio, Mr. John Pearson, Mr. Wills, Mr. J. Williams, Dr. Edwards, Mr. Bonney, Mr. Chatfield, Mr. Harrison, Mr. John Martin, Mr. Fitzgerald, Mr. Stock, Mr. Satchell, Mr. Sinclair, Mr. Kydd, Mr. Banks, Mr. G. Williams, Mr. Wardle, Mr. Watts, Mr. Richter,

"Resolved, That law ceases to be an object of obedience whenever it becomes an instrument of oppression.

"Resolved, That we recall to mind, with the deepest satisfaction, the merited fate of the infamous Jefferys, once lord chief justice of England, who at the era of the glorious revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people.



"Resolved, That those who imitate his example, deserve his fate.

"Mr. Tooke having left the chair, Resolved, that Mr. Gerrald be called to the chair.

"Resolved, That the Tweed, though it may divide countries, ought not, and does not, make a separation between those principles of common *severity*, in which Englishmen and Scotchmen are equally interested; that injustice in Scotland, is injustice in England, and that the safety of Englishmen is endangered, whenever their brethren, in Scotland, for a conduct which entitles them to the approbation of all wise, and the support of all brave men, are sentenced to Botany Bay, a punishment hitherto inflicted only on felons.

"Resolved, That we see with regret, but we see without fear, that the period is fast approaching when the liberties of Britons must depend not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm and undaunted resolution to oppose tyranny by the same means by which it is exercised.

"Resolved, That we approve of the conduct of the British Convention, who, though assailed by force, have not been answered by argument, and who, unlike the members of a certain assembly, have no interest distinct from the common body of the people.

"Resolved, That a copy of the above resolutions be transmitted to citizen William Skirving, secretary to the British Convention, who is now imprisoned under colour of law in the Tolbooth of Edinburgh.

"Resolved, That the resolutions now passed be published in the newspapers.

"Resolved, That the resolutions now passed be signed by the chairman and secretary."

Mr. Erskine.—I see Mr. Hardy was not there.

Mr. Garrou.—No, but there was a letter read from Mr. Hardy, which letter was read this morning, accompanying the copy of Margat's indictment, and stating that anniversary dinner of the London Corresponding Society.

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 24th January 1794,

"PRESENT,

"Mr. John Pearson in the chair,

"Mr. Horne Tooke, count Zenobio, Mr. Frost, Mr. Bonney, rev. Mr. Joyce, Mr. J. Williams, Mr. Stark, Mr. Banks, Mr. Rutt, Mr. Bonham, Mr. Kydd, captain Gawler, Mr. Wardle, Mr. Holcroft, Mr. Jennings, Mr. Watts, Mr. John Martin.

"A motion was made, that it be

"Resolved, That the most excellent ad-

dress of the London Corresponding Society, be inserted in the books of this society, and that the King's speech to His \*parliament be inserted UNDER IT.—In order that they may be always ready, for the perpetual reference of the members of this society, during the continuance of the present unfortunate war; and that, in perpetuum rei memoriam, they may be printed together, in one sheet, at the Happy conclusion of it; which happy conclusion, according to the present *prosperous* appearances, we hope and believe not to be many months distant.

"\* An amendment was moved, 'That between the words His and Parliament, the word *Honourable* should be inserted.'

"*Honourable* was withdrawn.

"Another amendment was then moved, 'That between the words His and Parliament, the word *Faithful* should be inserted.'

"*Faithful* was withdrawn.

"And it was unanimously resolved, 'That His, and His only, is the proper epithet for parliament upon the present occasion.'

"The resolution then passed unanimously, in its original form.

"Resolved, That the London Corresponding Society have deserved well of their country.

"Resolved, That the secretary be ordered to cause forty thousand copies of the address, the speech, and these resolutions, to be printed on one sheet, and properly distributed in England, Scotland, and Ireland.

"Resolved, That these resolutions be published in the newspapers."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 7th of February, 1794,

"PRESENT,

"Dr. Kentish in the chair,

"Mr. J. H. Tooke, Mr. Bonney, Mr. Bryant, Mr. Arthur Blake, Mr. Wills, Mr. Sharpe, Mr. Weldon, Mr. G. Williams, Mr. Green, Mr. J. Pearson, Mr. John Martin, Mr. Thompson, M. P. Mr. Wardle, Mr. J. Williams, rev. Mr. Harris, Mr. Parkinson.

"Ordered, That the resolutions relative to the address of the London Corresponding Society, passed at the meeting on the 24th of January last, be sent to the Edinburgh Gazetteer for insertion.

"Ordered, That a copy of the said resolutions of the 24th of January, be sent to the secretary of the London Corresponding Society."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Friday, 7th of March, 1794;

"PRESENT,

"Mr. Sharpe in the chair,

"Mr. Gawler, rev. J. Joyce, Mr. Bonney,

Mr. Blake, Mr. Tooke, Mr. Wills, Mr. G. Williams, Mr. Satchell, Mr. Wardle, Mr. Kydd, Mr. Stark, Mr. Hull, Mr. Holcroft, Mr. Chatfield, Mr. Thompson, Mr. Rutt, Mr. J. Williams, Mr. Beck, Mr. Banks, Mr. H. Campbell, Mr. Fawcett.

"Mr. Tooke gave notice that he would, at the next meeting of this society, move that two books should be opened; one of them (bound in black) in which shall be entered all the enormities of those who deserve the censure, and, in the other, the merits of those who deserve the gratitude of the society."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, 28th of March, 1794,

"PRESENT,

"Mr. John Pearson in the chair,

"Mr. H. Tooke, Mr. Bonney, Mr. Hull, Mr. William Sharpe, Mr. Wills, Mr. Wardle, rev. Mr. Joyce, Mr. Kydd, Mr. J. Williams, rev. Dr. Towers, Mr. Thompson, Mr. Scott, Mr. Holcroft, Mr. Beck, Mr. Parkinson, Mr. Banks, Mr. Stark, Mr. Moore, Mr. Jennings.

"Resolved, That an address be sent from this society to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald.

"The following address was proposed by Mr. Joyce, to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald:

"Friends and Fellow Citizens:—Although we have hitherto been the silent, yet we have by no means been the unconcerned spectators of your conduct and sufferings. We have seen and approved of your exertions for your country's happiness; we have marked, with honest indignation, every step that your enemies have taken to bring you to your present situation.—Your enemies are the enemies of public liberty:—the men who are conspiring against the happiness of mankind.—The cause in which you embarked, and to which you have borne an honourable testimony, is worthy of every exertion, and its importance to the world too great to expect its accomplishment without opposition.

"The history of liberty, for whose sake you are doomed to a long and unmerited exile, will afford, in the present instance, that consolation that former martyrs to the same cause have experienced; the consolation that you will not, you cannot suffer in vain.

"Man may perish, but truth will prevail; neither persecution, nor banishment, nor death itself, can finally injure the progress of those principles which involve the general happiness of man.

"While, therefore, we join every friend to humanity in lamenting what you have already endured, and with anxious hearts anticipate the perils to which you may be exposed in a barren and uncultivated country; yet we can rejoice, that the sources of happi-

VOL. XXIV.

ness are limited to no place, but are as extensive as the dominion of God:—under the protection of that Great Being may you, at all times, and in all places, feel the pleasure that arises from conscious integrity.

"Fellow citizens, we assure you, that the memory of your virtues shall never be effaced from our breasts; the cause for which you have struggled, is a glorious cause; the world that has witnessed your exertions, shall witness ours also.—A full and fair representation of the people of Great Britain we seek, with all the ardour of men and Britons; for the sake of which we are not only ready to act with vigour and unanimity, but, we trust, prepared also to suffer with constancy.

"Our best wishes will ever attend you; and we do believe that the day is not very distant when we shall again receive you, on British shores, the welcome children of a FREE and HAPPY country."

"Resolved, That the same be sent to Messrs. Muir, Palmer, Skirving, Margarot, and Gerrald.

"Ordered, That the said address be published in the newspapers.

"Mr. Joyce gave notice, that he would, on Friday next, bring forward a motion relative to the speech of Mr. Dundas, on Tuesday last, respecting the introduction of Scotch law in England.

"Read a letter from the London Corresponding Society.

"Resolved, That the same be entered on the books of this society.

March 27th, 1794.

"To the Secretary of the Society for Constitutional Information.

"Citizens:—I am directed, by the London Corresponding Society, to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society, respecting the important measures which the present juncture of affairs seems to require.

"The London Corresponding Society conceives, that the moment is arrived when a full and explicit declaration is necessary from all the friends of freedom.—Whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished, on our parts, as the treachery of others, in the same glorious cause, is notorious. The Society for Constitutional Information is therefore required to determine, whether or no they will be ready, when called upon, to act in conjunction with this and other societies, to obtain a fair representation of the people.—Whether they concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we, at present, labour, and which can



only be effectually removed by a full and fair representation of the PEOPLE of Great Britain. The London Corresponding Society cannot but remind their friends, that the present crisis demands all the prudence, unanimity, and vigour, that ever may or can be exerted by *Men and Britons*; nor do they doubt, but what manly firmness and constancy will finally, and they believe shortly, TERMINATE in the full accomplishment of all their wishes. I am, fellow citizen (in my humble measure), a friend to the rights of man,

(Signed) "T. HARDY, secretary."

"Resolved unanimously, 1st, That dear as JUSTICE and LIBERTY are to Britons, yet the value of them is comparatively small, without a dependence on their permanency; and there can be no security for the continuance of any Right, but in EQUAL LAWS.

"2nd, That equal laws can never be expected, but by a full and fair representation of the people.—To obtain which, in the way pointed out by the constitution, has been and is the sole object of this society.—For this we are ready to hazard every thing; and never, but with our lives, will we relinquish an object which involves the happiness, or even the political existence of ourselves and posterity.

"3rd, That it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions, to prevent a repetition of wicked and unjust sentences, and to recall those wise and wholesome laws that have been wrested from us, and of which scarcely a vestige remains; there ought to be immediately a CONVENTION of the PEOPLE, by delegates, deputed for that purpose, from the different societies of the *Friends of Freedom*, assembled in the various parts of this nation. And we pledge ourselves to the public, to pursue every legal method speedily to accom-

Joyce, Mr. J. Williams, Mr. Wardle, Mr. Hardy, Mr. Holcroft, Mr. W. Sharpe, Mr. Beck, Mr. Kydd, Mr. Banks, Mr. Richter,

"Read a letter from the committee of the London Corresponding Society, acquainting this society that they had deputed Matthew Moore, John Baxter, John Thelwall, Richard Hodgson, and John Lovett, to hold a conference with the members of this society.

"Mr. Moore, Mr. Thelwall, Mr. Hodgson, Mr. Lovett, and Mr. Baxter, attended from the London Corresponding Society.

"Resolved, That a delegation of five members of this society be appointed to meet the members deputed by the London Corresponding Society.

"Resolved, That Mr. Sharpe, Mr. Joyce, Mr. Wardle, Mr. Holcroft, and Mr. Kydd, be a deputation to confer with the deputies of the Corresponding Society.

"Resolved, That there be appointed a committee of correspondence of the members of this society.

"Resolved, That Mr. Joyce, Mr. Bonney, Mr. W. Sharpe, Mr. J. Pearson, Mr. Tooke, and Mr. Wardle, compose the committee."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor tavern, Strand, Friday, April 11, 1794,

"PRESENT,

"Mr. Joyce in the chair,

"Mr. J. Williams, Mr. Tooke, Mr. J. Pearson, Mr. Symonds, Mr. Hull, Mr. Wardle, Mr. Milner, Mr. Kyd, Mr. Wills, Mr. Thelwall, Mr. Scott, Mr. Thompson, Mr. G. Williams, Mr. Holcroft, Mr. Chatfield, Mr. Beck, Mr. Hardy, rev. Mr. Macewen (*Dundee*), Mr. Fawcett (*Pancrass-lane*), Mr. Jennings, Mr. Richter,

co-operation between the two societies were established, for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorized by their respective societies to act with such committees."

"Read the following letter from the secretary to the London Corresponding Society.

"April 10, 1794.

"Citizen;—I am ordered by the committee of delegates of the London Corresponding Society, to inform the Society for Constitutional Information, that they approve of the resolutions of the committee of conference.

"Therefore, the London Corresponding Society have chosen Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, and John Lovett, to put in practice immediately the second and third resolutions of that committee.

(Signed) "THOMAS HARDY, secretary.

"D. Adams, secretary to the Society for Constitutional Information."

"Resolved, That the report of the committee of delegates from the London Corresponding Society, and of this society, be entered in the books of this society.

"1st, Resolved, That it appears to this society very desirable, that a general meeting of the friends of liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people.

"2nd, Resolved, That it appears to this society, that the general object will be much promoted if a standing committee of co-operation were established, for the purpose of holding personal communication with such members of similar societies in other parts of the country as may occasionally be in London, and who may be authorized by their respective societies to act with committees.

"3rd, Resolved, That the committee of correspondence already appointed by this society, be the committee for co-operation and communication with the committees of other societies.

"Ordered, That the secretary be desired to send a letter to the London Corresponding Society, acquainting them with the members of this society appointed to confer with them.

"Resolved, That Mr. Joyce be requested to accept of the office of secretary of the committee of correspondence.

"Mr. Joyce being present, accepted of the said office."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, May 9, 1794,

"PRESENT,

"Mr. Wardle in the chair,

"Mr. Hull, Mr. J. H. Tooke, Mr. Frost, Mr.

W. Sharpe, Mr. J. Pearson, Mr. Hodgson, Mr. Joyce, Mr. J. Williams, Mr. Savage, Mr. Chatfield,

"Read a letter from Mr. Muir, on board the Surprise transport, in answer to the address of this society.

"Resolved, That the same be entered in the books of the society.

"Read a pamphlet, containing certain proceedings of the London Corresponding Society, and of this society.

"Resolved, That two thousand of the same be printed by this society."

Mr. Maclean.—I found this printed pamphlet at Mr. Adams's.

Mr. Garrow.—This is one of the pamphlets which the last resolution of the Constitutional Society directed to be published, and which was found in the possession of the secretary to that society. The letter of the 27th of March 1794 is introductory to this; that is, a letter from the London Corresponding Society to the Society for Constitutional Information, with their resolutions enclosed; they have been read before.

Mr. Erskine.—This letter having been already read, I should be sorry to insist upon the Court and Jury hearing it again, but when parts of papers are read, other parts may be out of recollection; though your lordships and I may have a recollection of it, the jury may not: I cannot tell whether every body else will form the same opinion of my case that I do, otherwise I should not be apprehensive of any thing.

Mr. Garrow.—The first thing is the letter, and the resolutions of the 27th of March, which have been read.

[The following extracts were read from the printed pamphlet produced by Mr. Maclean.]

"Proceedings, &c. of the Society for Constitutional Information.

"Society for Constitutional Information, London, March 28, 1794.

"Resolved, That the following address be sent to Messrs. Muir, Palmer, Skirving, Margat, and Gerral:

"Friends and Fellow Citizens;—Although we have hitherto been the silent, yet we have by no means been the unconcerned spectators of your conduct and sufferings. We have seen and approved of your exertions for your country's happiness—We have marked with honest indignation, every step that your enemies have taken to bring you to your present situation. Your enemies are the enemies of PUBLIC LIBERTY, the men who are conspiring against the happiness of mankind. The cause in which you are embarked, and to which you have borne an honourable testimony, is worthy of every exertion, and its importance to the world too great, to expect its accomplishment without opposition.

"The history of liberty, for whose sake you are doomed to a long and unvaried



exile, will afford, in the present instance, that consolation that former martyrs to the same cause have experienced; the consolation, that you *will not*, you *cannot*, suffer in vain.

"Men may perish, but truth will prevail; neither persecution, nor banishment, nor death itself, can *finally* injure the progress of those principles which involve the general happiness of man.

"While, therefore, we join every friend to humanity in lamenting what you have *already* endured, and with anxious hearts, anticipate the perils to which you *may* be exposed in a barren and uncultivated country, yet we can rejoice that the sources of happiness are limited to no place, but are as extensive as the dominion of God; under the protection of that GREAT BEING, may you at all times, and in all places, feel the pleasure that arises from conscious integrity.

"Fellow-citizens, we assure you that the memory of your virtues shall never be effaced from our breasts; the cause for which you have struggled, is a glorious cause, the world that has witnessed your *exertions*, shall witness *ours* also.

"A full and fair representation of the people of Great Britain, we seek with all the ardour of men and Britons, for the sake of which we are not only ready to *act with vigour and unanimity*, but *we trust, prepared also to suffer with constancy*.

"Our best wishes will ever attend you, and we do believe that the day is not very distant, when we shall again receive you on the British shores, the welcome children of a FREE and HAPPY COUNTRY.

"By Order of the Society."

"To the Chairman of the Society for Constitutional Information."

"*Surprise Transport, April 16, 1794.*

"Fellow Citizens;—I have long since looked upon your society with admiration and esteem, considering it as the source and school of most of the political information, which, by the blessing of God, has overspread the island. I have been instructed by the wisdom of your papers, and animated by the spirit of your addresses. That my conduct is approved by such a society, is my pride and my joy.

"You say (and the consideration is the support of my life), that the history of liberty will prove by the experience of her former martyrs, that sufferings in her cause cannot be in vain. That my sufferings may not be in vain, I ardently wish that the eyes of my countrymen were open, not only to the illegality and despotism of my sentence, but to the alarming measures by which it was brought about. My jury was three times packed by the servants of the crown before it sat upon me. In the first instance by the sheriff's deputy, placemen immediately appointed by the crown; in the second, by the crown agent, lord advocate, &c. at Edinburgh;

and in the third, by the justiciary lords, who tried the cause. These last, arbitrarily appoint the fifteen particular persons who are to sit upon the accused. The strongest objections are mere air, as the lords alone are the judges of the validity of them. A majority of the fifteen condemn. If, therefore, ministry, with their all-extensive influence, can in three countries find only eight servile tools subservient to their views, the fortune, the liberties, the lives of all Scotland are at their mercy. Trial is condemnation. The sentence is appointed before-hand by the minister, and mine was known a full week at Edinburgh before it was uttered. They can ruin, or even murder whom they please. This infamous robbery of the first right of Englishmen, a trial by jury fairly chosen, I have endeavoured to set forth in a letter to the editor of the Morning Chronicle, last October or November, of the date (if I remember rightly) of the 22nd or 27th, of which I now avow myself the author, to which I beg leave to draw the attention of the Society for Constitutional Information. Farewell, fellow-citizens.—I am, with respect and esteem, your equal brother,

"THOMAS FYSHE PALMER.

"*Surprise, Spithead, April 16, 1794.*"

"*Surprise Transport, Spithead, April 17, 1794.*

"Mr. President;—Permit me, sir, to assure you, and the respectable Constitutional Society, that the very consoling address, received agreeably to their resolution of the 28th ult. has excited in me, as also in the hearts of each of my fellow martyrs, for the important cause of universal suffrage, and annual parliaments, the most lively sensations of gratitude and esteem. The Constitutional Society was the foremost of true patriots to raise the Standard of Reform, for the purpose of redeeming from the contaminating and contagious influence of corruption, those venerable, but almost lost principles of the British constitution. Wrought into it by the blood and irresistible energies of our forefathers, many of whom, rather than that these principles, upon which depend the virtue and felicity of Society should be lost sight of, exhibited their high esteem of them on scaffolds and in dungeons; that all, even the most callous spectators might be persuaded, that the truths for which they did not reckon even their lives too dear a sacrifice, were surely worthy of the unprejudiced investigation of all. Your remark therefore is just, and it is very soothing to us, "*We do not, we cannot suffer for such a cause in vain.*" The resentment of our enemies, driving them into such absurd measures towards men, against whom vice of any kind is not even alleged, must have moved in every unprejudiced mind, the restless question; Why? Why are men who seek the improvement of their species thrown with felons into dun-

geons? And full information must follow sincere inquiry, and at length convert all to the side of truth and righteousness. I therefore cheerfully consent to suffer to promote the general good.

"We are blamed as having prematurely, at least, exposed ourselves to the necessity of sealing by our sufferings, the cause we would promote. If in this case we have erred, I will readily take the whole blame, as having strained every nerve to press forward the measure of a general convention, as being the only means to avert impending ruin. I sought to arouse and alarm my countrymen to consider their extreme danger. I feared that the necessity for such association would be on us before we were prepared for it. Besides, what measure could possibly interest so much the public inquiry? what has so much increased public information? It excited counter associations, and caused every man to see who were on the side of truth, and who were on the side of corruption: It exposed the selfish and interested designs of the one, and the unfeigned prosecution of the public good by the other. I speak so with the greater confidence before a Society that must have marked the progress of information so long under their own auspices. You must know that this progress, the exciting the inquiry of the public, has been more extensively effected during the last year, than during the ten preceding ones. The cause was the General Convention. The terror and hatred of ministry to it proves the truth. Who then would have refused even his life to have been instrumental in promoting so much good?

"Your explicit approbation of our conduct has prompted this self-exultation; forgive therefore my freedom. I may be mistaken. The important revolution in human affairs, to which every Christian looks with anxious hope, may be yet distant. If it is, tyranny may still triumph. But God forbid it. It would then be better to die than to live. But though I hope the reverse, I know, as you justly observe, 'That the importance of the cause of freedom is too great to the world, to expect its accomplishment without opposition,' and the opposition of despairing tyranny will be dreadful, it will be destructive; and why?—because nothing but its ruining last struggle will rouse mankind from their idle dream of security. They regard not, they pity not its present victims. They put off the evil far from themselves, and hence it overtakes them suddenly, 'when their strength is gone, and there is none about up or left.' Hold fast therefore what you have attained. Your association alone can prevent the dreadful consequence of such indifference. UNITING LOVE is the strength, as well as solace of mankind. Cement by reciprocal kind communications, the union of hearts, of interests, of measures, which have been solemnly resolved. By so doing, you will escape the destruction which is coming on all the earth.

"Worthy citizens, I will solace my mind, when drooping, with the kind assurance which you have vouchsafed by your masterly address, that I, with my brethren, have a place in your affection and prayers; and I will believe with you, 'that the day is not very distant, when you will again receive us on British shores, the welcome children of a free and happy people.' When indeed it shall be demonstrated, 'That our enemies are the enemies of public liberty; the men who conspire red against the happiness of mankind.' But though the mighty are combined, though they should so far prevail as to scatter utterly in their vain apprehension the friends of truth, the principles of it which are already established, is the 'stone cut out without hands, and shall become a great mountain, and fill the whole earth,' for he who first commanded the light to shine out of darkness, is its almighty patron.

"Be assured, my dear brethren, that I have already realized the pleasures of conscious integrity, and can reflect with the sincerest satisfaction, that I was influenced in all my exertions for the cause of reform, by that benevolence which I would ever cultivate as the principle of every kind of human excellence.

"With sentiments of the most unfeigned esteem and respect, I am your sincere well-wisher,  
W. SKIRVING.

"The President of the London Constitutional Society."

"Surprise Transport, April 24th, 1794.

"To the members of the Society for Constitutional Information, in London.

"That the spirit of Freedom is not extinguished, but still retains its former energy, in defiance of the artifices and of the violence of despotism, is an object of high consolation to my mind. Engaged in the sacred cause of man, individual man is an atom of little value; and in speaking of himself, when he recollects and contemplates the principles of his conduct, should disdain to make use of the term suffering. Without a vain affection, for myself, I disclaim the assumption of extraordinary merit. The man who has acted in obedience to the law of his own conscience, has simply discharged his duty; and the contrary supposition would involve him in guilt. I am deeply persuaded, that many of the men, whom I now address in a situation less circumscribed, with abilities more powerful, but not with hearts more honest, after having achieved what I could not accomplish, would with the same silent scorn have regarded each feeble attempt to shackle and to repress the freeborn mind.

"Your preceding exertions, in attempting to procure a fair representation of the people in parliament have been meritorious. They are a solemn and sure pledge of their future continuation. In proportion to the number, and to the rapidity of those tremendous



scenes, which daily in succession pass before the eye; *All, All* of them deriving their existence from this violation of our constitutional rights, let your ardour in procuring a rectification of what is wrong be increased. Confident you will obtain the blessing of that *Being*, whose great design is the happiness of his creation.

THOMAS MUIR."

"It being recommended at a former meeting, to the members of the SOCIETY FOR CONSTITUTIONAL INFORMATION, to peruse two printed sermons of the rev. J. H. WILLIAMS, preached on the public fasts of 1793 and 1794, as productions of singular worth, the society came to the following unanimous resolution:—

"*London, April 25th, 1794.*

"Resolved, That the grateful thanks of this society be paid to the rev. J. H. WILLIAMS, Vicar of Wells-Bourn, Warwickshire, for the publication of his two inestimable sermons on the public fasts of April 1793, and February 1794. The doctrines and sentiments which they contain are in perfect unison with the principles of this society; and we trust that the motives and springs of action which he recommends, will ever be found to direct our conduct.—By order of the society,

"D. ADAMS, secretary."

"Society for Constitutional Information.

"*May 2nd, 1794.*

"This being the anniversary of the society, upwards of three hundred persons dined together at the Crown and Anchor-tavern, in the Strand.

"JOHN WHARTON, M. P. in the chair.

"STEWARDS,

"T. Thompson, M. P.	John Williams,
John Chatfield,	John Pearson,
J. Bellenden Gawler	Arthur Blake,
Robert Knight,	William Sharp,
G. Wingfield Sparrow,	Thomas Wardle,
Jeremiah Joyce,	Charles Goring,
	John Bonham."

"During the time of dinner, and between the toasts, a numerous band played the popular tunes of *Cà Ira*, the *Carmagnol*, the *Marseillois March*, the *Democrat*, and a new piece of music, called the 'FREE CONSTITUTION.'

"After dinner the following sentiments were given with unbounded applause:—

"1. THE RIGHTS OF MAN.

"2. A Free Constitution.

"3. The Swine of England, the Rabble of Scotland, and the Wretches of Ireland.

"4. Equal Laws and Liberty.

"5. May Despotism be trodden under the Hoofs of the Swinish Multitude.

"6. THE ARMIES CONTENDING FOR LIBERTY.

"7. Wisdom, Firmness, and Unanimity to all the Patriotic Societies in Great Britain.

"8. To the reign of Peace and Liberty.

"A citizen then rose, and in a short speech observed, that the Stewards seemed to have forgotten in their list of toasts, a person who had done more than almost any man towards *the Reign of Peace and Liberty*; he would, therefore, propose as a toast "lord Stanhope." An amendment was proposed, that instead of Lord Stanhope, Citizen Stanhope should be drank, which was received with thundering applause.

"9. May the Public Revenue never be applied to the purposes of corruption.

"10. The Victims to the cause of Liberty suffering under the sentences of the Court of Justiciary.

"11. Archibald Hamilton Rowan, and the Patriots of Ireland.

"12. The persecuted Patriots of England.

"13. MAY THE ABETTORS OF THE PRESENT WAR BE ITS VICTIMS.

"14. The Chairman, and success to his exertions in the cause of Freedom.

"Mr. Wharton thanked the company for their marked approbation of his conduct, and pledged himself to continue his efforts in the cause of Liberty. He then said he would propose as a toast,

"15. That steady Friend to Liberty, John Horne Tooke.

"Mr. Tooke said, he hoped it would be the last time that his health should be drank. His ambition was, that hereafter his MEMORY should be given.

"16. MAY ALL GOVERNMENTS BE THOSE OF THE LAWS, AND ALL LAWS THOSE OF THE PEOPLE.

"17. Thomas Paine.

"The Chairman then gave as a concluding toast, a sentiment directly in opposition to that of Mr. Windham.

"18. Prosperity to the commerce and manufactures of Great Britain."

Mr. Garrow.—There follow several songs, which are stated to have been sung at the dinner.—I do not desire them to be read, but have not the smallest objection to their being read, if Mr. Erskine wishes it.

Mr. Erskine.—I am not particularly anxious for a song at the present moment.

[The songs were not read.]

It being now past twelve o'clock, a conversation took place respecting the adjournment, in which the jury stated, that they could not have the necessary refreshment of sleep in the Session House, having only one room, and nothing but mattresses to lie down upon, and that they had not had their clothes off for more than forty hours. The Counsel on both sides expressed their desire, that the Jury might have every possible accommodation. The Court being informed, that the jury could have beds at the Hummums, in Covent-Garden (with the con-

sent of the Counsel on both sides), directed that they should go thither. Four officers were sworn to keep the Jury; and the jury went in coaches to the Hummums, attended by the Under-Sheriffs, and the four officers.

Adjourned till Eleven o'Clock.

*Session House in the Old Bailey, Thursday, October the 30th, 1794.*

Present, Lord Chief Justice Eyre; Lord Chief Baron Macdonald; Mr. Baron Hotham; Mr. Justice Buller; Mr. Justice Grose; and others his majesty's justices, &c.

*Thomas Hardy set to the Bar.*

Mr. Attorney General.—I am going to produce some papers found in the possession of the prisoner so far back as the 30th April, 1792, by which it will appear that the prisoner, Mr. Margarot, Mr. Martin, Mr. Richter, one of the persons named in this indictment, were at that time chosen delegates of the Corresponding Society, and Mr. Vaughan, and one or two more of them, I think were to draw up the constitution of the society.—I shall produce a letter of the prisoner desiring that constitution to be drawn up.

Mr. Gurnell.—These two papers I found in Mr. Hardy's possession.

[They were read.]

*"Monday, 30th April, 1792.*

"Corresponding Society, Division No. 7, held at the sign of the Coach and Horses, Lincoln's Inn Fields.

"James Sheriff in the chair.

"Resolved unanimously, That Maurice Margarot be appointed our delegate to the standing committee of the several divisions of the Corresponding Society.

"That said delegate shall continue in office during the space of three months from this day.

"That these resolutions, signed by the chairman, be transmitted to the president of the committee.

"(Signed by order),

"JAS. SHERIFF, chairman."

Indorsed,—*"April 30, 1792, Division No. 7.*

"Mcc. Margarot, delegate."

"To the Delegates of the London Corresponding Society.

"At a Meeting of the Second Branch of the aforesaid Society, held at the Blue Posts, Hay-market,

"Mr. M'Bean in the chair,

"It was unanimously resolved, 1st. That the precedence is to go by rotation.

"2dly. That David Rowland was unanimously elected secretary.

"3dly. That Mr. Martin was unanimously elected delegate for this society, for three

months from the date hereof. By order of the society, D. ROWLAND, secretary.

*"April 30th, 1792."*

Indorsed,—*"Mr. Martin, attorney at law, Richmond Buildings.*

*"30th April, 1792.*

*"Division No. 8. John Martin, delegate.*

*"Division No. 8, Blue Posts. John Martin delegate.*

*"James Black, deputy, the 10th May, 1792, in consequence of Mr. Martin's non-attendance."*

Mr. Lauzun.—I found these two papers in Mr. Hardy's house.

[They were read]

"This is to certify, that we, the Division No. 16 of the London Corresponding Society, have chosen John Baxter our delegate.

"EDW. JONES, chairman.

"E. GRAY, secretary.

*"Nov. 5, 1792."*

Indorsed—*"Mr. Margarot.*

*"Division No. 16—John Baxter, delegate.*

*"No. of members 31."*

*"Thursday, 8th Nov. 1792.*

"On an application being made to the committee of delegates of the London Corresponding Society, by John Richter, of division No. 6, for leave to institute a division of this society in the neighbourhood of Knightsbridge, he is hereby authorized to do so in the course of the next week, and take the name of Division No. 19 of the London Corresponding Society.

"Signed by order,

"Mcc. MARGAROT, chairman

"THOS. HARDY, secretary.

"This is to certify, that John Richter is appointed delegate from Division No. 19 of the London Corresponding Society, this first meeting, at the Friend and Hand, Little North-street, Knightsbridge, this Monday, the 26th Nov. 1792.

"JOHN RICHTER, chairman.

"ALR. WATING, secretary."

Indorsed—*"To the citizens delegated for the management of the affairs of the London Corresponding Society, &c. &c.*

*"Division No. 19.*

*"John Richter, delegate—No. of members, 6."*

Mr. Gurnell.—I found these papers in Mr. Hardy's house.

[They were read.]

*"7th May, 1792.*

"Mr. Hardy, the bearer of this, is delegated by the division of the London Corresponding Society that meets at the Bell, Exeter-street, Strand; and is authorized to assist at the committee appointed to form a constitutional code of laws for the government of the Corresponding Society.

ROBERT BOYD."

Indorsed—*"30th April, 1792.*

*"Division No. 2—Thos. Hardy, dele"*



"The 30th April, 1792.

"Mr. Vaughan, the bearer of this, is delegated by the division of the Corresponding Society that meets at the Bell, Exeter-street; and is authorized to assist at the committee appointed to form a constitutional code of laws for the government of the Corresponding Society."

Indorsed—"30th April, 1792.

"Division No. 3.—Felix Vaughan, delegate."

"Sir;—I take the liberty of sending you a few of our original papers, for your perusal this afternoon.—If you see any thing in them worthy of adopting, for the approbation of the delegates to-morrow evening.—Some of them are sweet flowers; and I hope you will be like the bee—extract a little from each. I wish you (if you see any propriety in it) to copy part of the preamble; that part, I mean, that mentions the number of inhabitants in each of those populous towns that have not a single voice in choosing a member to represent them.—I am sure it would have a good effect upon the public, and likewise the rotten boroughs in Cornwall; when those papers were read in our society in its infant state; (but, by-the-by, it is scarcely out of leading-strings now; but do not let a doubt remain with us of success) they were fired with indignation at such an unjust and unequal representation; many never heard of any such thing.—If our society were so affected, by the same way of reasoning, tens of thousands of the people of this nation would be equally so, if they were informed of the existence of those evils; for some of them (in my opinion) are the most glaring that can be exhibited to the public.—Excuse me for taking such liberty with you.—I remain, sir, your and the society's zealous friend,

THOS. HARDY.

"2. That, to enjoy all the advantages of civil society, it is not necessary that individuals should relinquish more of their natural independence than is required to fulfil this injunction. Let the minority yield a friendly submission to the majority."

"3. That no majority, however great, can justly deprive the minority of any part of their civil rights:—wherever it is attempted, the social bond is broken, and the minority have a right to resist.

"4. The civil rights of every individual are equality of voice, in the making of laws, and in the choice of persons by whom those laws are to be administered.—Equality before the law, whether in claiming its protection, or submitting to its sentence. Freedom to publish his opinion, to exercise his religious worship without molestation or restriction, and to enjoy his property, subject only to such contributions as may be impartially levied for the public service.

"5. Submission to any measure does not imply silence as to the propriety or impropriety thereof.

"6. Every power intrusted to a magistrate, implies a responsibility for the exercise of that power.

"7. The foregoing are not new, but are the original principles of English government.

"8. The total departure from the principle of equality in the election of the legislative body, commonly called the House of Commons, is the chief cause why the people of Britain are now deprived of the benefit of the foregoing principles; and in place thereof, labour under a continued system of extortion and monopoly.

"9. The Corn act—is a grievance immediately resulting from the restriction of the choice of representatives, to men of landed property: by it the price of bread in general

as engines of corporation influence; for in some instances, the produce of the tax does not pay the expense of collection; were the sense of the nation fairly taken, it is impossible to believe but that whatever sum might be necessary for the public service, it would be raised by means less obnoxious and less expensive.

“ 12. *The mutiny act*—which would never have existed, had not the bulk of the people been excluded from representation. It reflects a charge of hypocrisy on those who affect to bewail the late events in France; yet calmly view the defenders of their own country, subjected to every species of fraud, insult, and cruelty. The military excellence of true republicans, in all ages, proves it to be unnecessary. Convince a Briton, that he is about to fight for a country in which his rights are duly consulted, and the cat of nine-tails may be burnt by the hands of the common lang-man.

" 13. *The impress service*—equally cruel with the foregoing, is another effect of partial representation : it has lately been proved that the expense of this service, if applied to increase the seamen's pay, would render impressing unnecessary ; but it is more consistent with the government of a faction, to distribute the sum among the officers of corporations.

“ 14. The ill effects of partial representation are not confined to men in private stations; we challenge contradiction when we assert that, in general, promotion, whether in the army, navy, or church, is the effect of parliamentary connection, and the reward of parliamentary prostration.

" 15. We cannot entertain a doubt that the foregoing statement of grievances will be admitted as just by our constituents at large, and also that an equal representation, by universal and annual suffrage, would tend immediately to redress them. It remains to prove that the difficulties said to attend such a scheme are merely the conventional objections of interested men.

"16. Let us suppose 21 equal corporations (the 21 judges of liberty and justice) and consider the whole world as the corporation divided into countries. It may be for the purposes of protecting and maintaining the rights of the people of each country, that the world be divided into districts, to have one judge in each district, and for settling controversies between districts, to have one judge in each country, as convenient to equal government in the number of judges."

"17. After the election of November 3, 1964, one representative from each of the 100 precincts was elected into parliament. Each precinct was assigned to a vote, the representative of the party with the most votes in the precinct was elected to the parliament. Large precincts may be subdivided into wards for counting.

Let every man give the value of the  
in which he resides. And the value is  
and called for a number  
of the

bers of houses;—either of these methods would prevent that source of riot, the practice of voting in party groups.

" 19. The truth of entry of every individual vote in each parish would easily be examined, and the totals of the several parishes in each district so easily collected, that we scruple not to assert, a general election might be decided, with indisputable certainty, in twelve hours.

" 20. In saying the whole island should be considered as one corporation, we do not wish to be understood as recommending that districts should choose their representatives from distant parts. On the contrary, we think the representative should always be a resident of the district, as his character would be better known to his constituents. Hearsay characters are seldom any other than the blazonings of faction.

"§1. It is indispensable to good government, that representatives should be paid for their service to the public. The want of open and honourable reward, retards the exertion of laudable characters, and subjects the nation to the fraudulent and delusive practices of mock patriots.

"28. To those who are convinced of the propriety of the foregoing ideas, and only ask, how shall we attain the practice of them? we answer, *Associate*. By so doing, you will better correct and strengthen each other's opinions on the subject of liberty, and eventually abate the *toils of corrupt influence and lawless power*—effects which are not to be expected from the vague and desultory exertions of individual opinions.

"Having thus stated what we conceive to be the sentiments of the society, we resolve, namely, that the members shall meet in three quorums, consisting as nearly as convenient of thirty members each, and that the management of its affairs be vested in one COMMITTEE OF DELIBERATION, one SELECT COMMITTEE, and one COUNCIL, subject to REFERENCE TO THE DIVINE AND TRIAL BY JURY, as more particularly defined in the following articles:

"SECTION I - Form of Admission and  
Date of Signing

[illegible]

The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of California:

[illegible]



that his general character is such as will not be disgraceful to this society?

"3. If the proposer shall answer the foregoing question in the affirmative, the president shall demand of the division, whether any member has any objection to the candidate.

"4. If no objection satisfactory to the division shall be made, the president shall put the following questions to the candidate:

"Are you convinced that every man who has attained to years of discretion, is in possession of his reason, and not disqualified by crimes, ought to have a vote for a representative, and not more than one vote?

"Are you convinced that the representation ought to be divided as nearly as possible in proportion to the number of electors?

"Are you convinced that the election of representatives of the people ought to be annual?

"Will you, by all justifiable means, endeavour to promote a reform in the parliament of this country, agreeable to the principles which you have now professed?

"6. No member shall be allowed to stile himself, or any other, by any party name, whether intended to convey respect or disrespect.

"7. All political appellations which do not in their immediate interpretation convey an idea of political sentiment or situation, are party names. The following do not fall under this objection, as will appear by their explanations:

"*Republican*,—One who wishes to promote the general welfare of his country.

"*Democrat*,—A supporter of the rights and power of the people.

"*Aristocrat*,—One who wishes to promote the interest of a few at the expense of many.

"*Royalist*,—Among the ignorant part of mankind, signifies, a person attached to regal government: among artful courtiers, it is a veil for their own aristocracy.

"*Loyalist*,—A supporter of the constitution of his country.

"*Citizen*,—The ancient appellation given to the members of free states.

"*Subject*,—can only with propriety be applied to a member of a state, whose government has been instituted by foreign conquest, or the prevalence of a domestic faction.

## "SECTION II.—The Organization and Power of a Division.

"1. Each division shall meet once in a week, or any evening in the week, except Thursday and Sunday.

"2. The hour and place of meeting shall be at the convenience of each division, but must be announced to the constituted bodies.

"3. Each division shall elect from its own members, a president, vice-president, secretary, assistant secretary, delegate and sub-delegate.

"4. Each division shall be furnished with

three books (viz.) one to bear the number of the division,—a similar book, to be called the supernumerary book of the same division,—and a third for entering minutes.

"5. No division book shall contain more than 30 effective names;—subject to variation as hereafter mentioned.

"6. Members admitted after the division shall amount to 30, shall be entered in the supernumerary-book, but not before.

"7. As soon as the members entered in the supernumerary-book, shall amount to 16, they shall be entitled to a number as a new division: they shall determine the time and place of their future meeting; they shall receive a supernumerary-book, and a minute-book, and a new supernumerary book shall be delivered to the original division.

"8. Members entered in any supernumerary-book while less than 16, shall be entitled to vote, and, in every respect, be considered as members of the division to which such supernumerary-book shall belong.

"9. No new member shall have a vote the same sitting, in which he is admitted; nor transferred member the same sitting in which he is transferred.

"10. Each division shall be allowed one shilling and sixpence per week for rent, furniture, &c.

"11. Every member shall have liberty to introduce one stranger, provided such member shall answer that the sentiments of the stranger are similar to ours, and the same stranger shall not be introduced more than twice, except for the purpose of admission as a member.

"23. In case of persecution, and that the means provided by the VIIth, VIIIth, and IXth sections of this constitution, should not produce the effect of re-establishing a representative body of this society for two weeks successively, every division shall have power to elect four persons, whose powers shall be the same as the four officers of the committee of delegates.

"24. The sole object of those four persons, shall be the re-establishment of the representative body, and they shall report progress weekly, and be weekly subject to revocation.

Mr. Attorney General.—It then goes on to state the mode of election; the duty of the president and vice-president; of the secretary and assistant-secretary; the delegates and sub-delegates. It then states the committee of delegates. Read the first four articles of that section, and the 14th and 21st.

## "SECTION VII.—The Committee of Delegates.

"1. The committee of delegates is the representative and legislative body of this society.

"2. Their duty is indivisible, and the representation shall not be impaired by any



appointment, either of themselves collectively, or of any other constituted body, which may subject the members thereof to be absent from their meeting, or to be parties concerned in any subject under their discussion.

" 3. Not less than three-fourths of their whole number shall be a quorum, except in case of persecution.

" 4. There shall be no disparity or dissimilitude between the members, by offices of presidency, or secretaryship.

" 14. The duty of the committee of delegates is to direct the conduct of the executive powers in all matters which do not require secrecy or expedition.

" 21. If the executive powers, for the purpose of obtaining their approbation, shall communicate any thing which a majority of the delegates shall approve as necessary to be secretly done; the whole committee of delegates are bound to secrecy.

#### " SECTION VIII.—The Select Committee.

" 3. No member of this committee shall be admitted until he has answered in the affirmative, the following question, which shall be put by the officers of the committee of delegates:

*" Do you promise, that you will not relinquish the station which you are about to take in this society, on account of any persecution which may be brought on it. That you will persevere in meeting the select committee, and to the utmost of your power, encourage every other member of this society, to fulfil the duty of his respective station ?*

#### " THEIR OFFICE IS,

" 1. Preparatory as they may be directed, either collectively, partially, or individually, by the committee of delegates, or the council.

" 2. Referential as to any matter adopted by the committee of delegates, or the council, or by both, which they may judge improper.

" 3. All intended publications of this society shall, previous to being printed, undergo their collective examination.

" 4. One third of their whole number shall be a quorum.

#### " SECTION IX.—The Council.

" 1. Shall be composed of one treasurer, one principal secretary, and not less than four assistant secretaries.

" 6. The principal secretary shall record all laws which shall be made by this society, which shall be printed annually.

" 13. Every member of the council shall be really acquainted with every transaction of this society, however secret.

" 14. Each member of the council shall have a complete list of the members of every division of this society, with their residences,

which list he shall deposit to the best of his judgment, in a place of safety.

#### " SECTION XI.—Of Accusation and Trial.

" 1. If any member shall think another unworthy of being a member of this society, or that he has acted in any degree improperly, he shall offer his accusation in writing, signed by himself, in the division of which the accused is a member.

" 2. Every accusation shall state the law on which it is grounded.

" 3. If the decision of the division shall be in favour of the accused, the trial shall go no farther; if not, the accuser shall give a statement of the case, in writing, to the delegate of his own division, to be laid before the committee of delegates.

" 4. No vote or resolution, touching any matter of accusation, shall pass in any division, except that of the accused (as mentioned in the last article), nor in any of the constituted bodies.

" 5. The delegates having received the case, shall elect four persons, not of their own body, nor of the division, or divisions concerned, to act as president, secretary, vice-president, and assistant-secretary in the ensuing trial.

" 6. They shall also issue notices to each division, except those of which the accuser or accused are members; mentioning the time and place of trial, and the four persons whom they have appointed to superintend it, and requiring each of them, to return one jurymen.

" 7. Each division shall return, of its own members, one jurymen, by lot; but none of the four persons appointed to superintend the trial, nor any member of any constituted body, shall be returnable.

" 8. Every jurymen so drawn, and failing to attend at the appointed time, shall forfeit two shillings and sixpence, except in case of sickness; as shall also each superintendant.

" 9. The superintendants shall, by lot, take twelve names out of the whole number present, who shall be the jury for that trial, unless the accused object, which he may do to four of them, but not more.

" 10. The accuser and accused shall each be allowed one assistant, at their own choice.

" 11. The president shall read the accusation, and call on the accuser to produce his evidence.

" 12. The evidence on the part of the accuser being closed, the accused may call his evidence.

" 13. During the time each witness is giving his evidence, he may be cross-examined by the jury, the president, the accused, the accuser, or either of their assistants.

" 14. The evidence being closed, the accused and his assistant shall be allowed to comment on it, and make his defence; but the cross-examination shall be deemed sufficient on the part of the accuser.



"15. If the president shall think proper, he may recapitulate the principal points of the evidence, and comment on them.

"16. The jury shall give their verdict in writing, signed by all their names.

"17. If the jury shall not within two hours agree, that the accused is guilty he shall be acquitted.

"18. The issue of the trial shall be reported to the committee of delegates, and by them to the divisions.

*Jane Rickman* sworn.—Examined by Mr. *Boxer*.

—You are the wife of Thomas Clio Rickman?  
—I am.

—What trade is your husband?—A bookseller.

—Look at those books, and see whom they appear to be printed by [Showing the witness a copy of the large and of the small edition of the Second Part of the Rights of Man, and the Letter to the Addressers.]?—They are printed for my husband.

Do you know Mr. Thomas Paine?—Yes.

During the time that those books were printing, where did Mr. Paine lodge?—I believe he was gone out of England when they were printed.—I fancy so.

Did he ever lodge, at any time, at your husband's?—Yes.

About what time was it he lodged at your husband's?—From June to September, 1792.

Did you ever see any of the sheets of that work while the printing was going on?—Yes, I have.

Where did you see them?—At our house.

Your husband printed them?—No—he does not print.

They were brought to your house as they were printed off?—I cannot say I saw them

one, I believe, did not make its appearance; but some of the proof-sheets I had seen before he went away; but it was not published before he left England.

*Jane Rickman* cross-examined by Mr. *Erskine*.

Do you mean to swear that these are two of the very books that were printed for Symonds and your husband?—To the best of my knowledge.

Can you take upon you to swear that these are part of the copies actually printed for him, or may they not have been printed by somebody else, and be extremely like them? You have never read the book through, so as to be able to say that it is the same. You only see that this is intitled "A Letter addressed to the Addressers;" but there may be news in it, for any thing you know?—I know nothing about what it contains.

Nor do you know it by the type, the paper, or any thing about it?—I never saw it till it was in that state. This pamphlet has my hand-writing upon it.

Mr. *Attorney General*.—From whom had you those books?—They were sent to me from, I suppose, Mr. Johnson.

Mr. *Erskine*.—I submit to your lordship, that this evidence is not sufficient to entitle them to read these pamphlets. I require, and I ask no more, that whenever it relates to this society or that, no matter what bearing it may have upon the issue of the cause, that they should be fixed by the same evidence as would be necessary if they were tried for the publication of a libel.—I am sure the attorney-general will not propose to have a looser proof in the case of high treason, than in a misdemeanor.

Mr. *Attorney General*.—I have given no

—That I never knew but what I heard from my wife.

Thomas Paine, we understand, lodged at your house?—He did.

Did you ever see any of the sheets of those works while the printing was going on?—No, not as the printing was going on.

Were any proof-sheets, before the work was printed, brought to you?—Never.

Look at them, and tell us, whether either of them were the books that you printed?—I did not print the books at all.

Did you publish them?—My name was put to them.

Did you ever sell any of them?—Yes, many.

When did you sell any of those books?

Mr. Gibbs.—Do you think that is evidence? I do not mean to moot the question.

Mr. Bower.—Whose hand-writing is it upon that copy?—My wife's hand-writing, I believe.

Mr. Attorney General.—In the course of your business, did you ever know of any other book intitled "An Address to the Addressers?"

Mr. Erskine.—I am sure this evidence is very imperfect—no man could be fined five pounds upon such evidence.

Rickman.—I never saw any book of that title but this.

Mr. Attorney General.—Are you a member of the Constitutional Society?—I was.

Mr. Erskine.—Do you mean to take upon you to swear that these are two of the identical books that were sent to you for sale?—I do not.

Mr. Erskine.—They may be exactly like them, or part like them, and yet be printed by others—Is there any thing in the paper, or the type, that can enable you to swear to them?—No. I know nothing about printing.

Mr. Attorney General.—I should like to know how you could prove Locke's Essay upon Human Understanding otherwise: Is that the book you sold at your shop as an Address to the Addressers, when such a book was asked for?—It was such a kind of book as this.

Look at the matter of the book?

Mr. Erskine.—Will your lordship allow a man to look at a book to which he cannot swear, in order to prove that that is the identical book?

Lord Chief Justice Eyre.—It is not likely that he should have knowledge enough of the work to be able to answer the question; but if he could satisfy us that he knew that this book contained the identical words that were in the books that were commonly published under that title, to this purpose perhaps it might be evidence.

Mr. Erskine.—Not having the original book here, could he be permitted to say, I do not bring the original book, but I bring a copy?

Lord Chief Justice Eyre.—If we could be sure it was an exact copy of the same book it would be the same as the original; they are all copies.

Mr. Attorney General.—Suppose the Con-

stitutional Society referred to Locke's Essay upon the Human Understanding, how is it possible to identify that book without calling the bookseller to prove that that is the book which he sells for Locke's Essay on the Human Understanding?

Lord Chief Justice Eyre.—As that would refer merely to the contents of the book, it would be very good evidence of the contents.

Mr. Attorney General.—This is what I am asking to.

Lord Chief Justice Eyre.—You certainly are, but whether he goes to the length of that is the question.

Mr. Attorney General.—Is that the book you would have sold as the Address to the Addressers, by Thomas Paine?

Lord Chief Justice Eyre.—But did he ever read it?

Mr. Attorney General.—I would not ask the question, unless I was very well apprized, according to my information, of what knowledge this witness has of it.

Lord Chief Justice Eyre.—Go on in your own course.

Mr. Attorney General.—Do you know the contents of it?—I have read the book.

Look and see, whether by the contents of it that is the book you would sell as the Address to the Addressers, by Thomas Paine, if you had been asked by a customer for Paine's Address to the Addressers, without any explanation?—I should certainly sell this book as the Letter to the Addressers because it is so entitled.

Look at the contents of it; I will have an answer to this if I make you read it through?—I have certainly read the Letter to the Addressers.

Look at the contents of the book in your hand, and see if the contents are the same as the Letter to the Addressers which you read?—I have no doubt of its being the same.

Is it not from the contents that you have no doubt?—No, I confess it is from the complexion of the book itself.

You have been told to look at the contents, now look at the contents.—I have looked at them.

Then have you any doubt that that is the Letter to the Addressers?—Certainly, I have no doubt.

Thomas Clio Rickman—cross-examined by Mr. Erskine.

Is the reason why you have no doubt from the general appearance of the book, or have you no doubt because you have satisfied your understanding, by comparing that book with the recollection you have of the former, having a perfect recollection of every sentence in the former?—Not of every sentence.

Then could you take upon you to swear, that it is exactly the same, word by word, and letter by letter?—I have not sworn that.

Mr. Attorney General.—Have you any doubt that it is the same?—I have not.



Mr. *Attorney General*.—Put it into the hands of Mrs. Rickman. Did not you put them in the shop, and mark them as books to be sold?

Mrs. *Rickman*.—I put my name on them.

Lord Chief Justice *Eyre*.—When?—On giving them to Mr. White.

Lord Chief Justice *Eyre*.—In your shop?—No.

Mr. *Attorney General*.—You had them in your shop as books to sell?—I had.

Mr. *Erskine*.—I understand the Court to be of opinion (indeed I am not at all disposed to argue it) that this book must be taken, at present, to be the Letter addressed to the Addressers, upon the Proclamation, by Thomas Paine. What I wish to know, is, how it is proposed to make this taking it to be the book it is alleged to be, evidence in this cause. I perfectly understand why the Rights of Man were stated to be so, because those whom this prosecution proposes to implicate in certain acts—the Corresponding Society, having come to a resolution to circulate it, therefore it was fair evidence.

Lord Chief Justice *Eyre*.—You had better hear how they propose to make it evidence.

Mr. *Erskine*.—I understand that there is no evidence yet before the Court of any resolution of either of the societies to circulate this book, or to recommend it to reading.

Mr. *Attorney General*.—Your lordship will give me leave to observe, that Mr. Paine has been proved to be the author of the First Part of the Rights of Man; the Second Part of the Rights of Man—the Letter to the French nation; and I believe (though I am not accurate about that, because I was not in court yesterday morning) a letter to Mr. Dundas.—Mr. Paine is proved to be also a member of the Constitutional Society; Mr. Rickman, the witness, the person in whose hands this work was, in order to be sold, is also proved to be a member of the Constitutional Society. Now, under these circumstances, I submit to the Court, that Mr. Paine and Mr. Rickman being both of them members of the Constitutional Society, what one writes for publication, and the other publishes, is evidence after what has been already stated.

Lord Chief Justice *Eyre*.—I cannot myself, imagine that those facts, which are so perfectly distinct from the particular subject of this indictment, can possibly implicate them so as to make their publications evidence in this cause.

Mr. *Attorney General*.—Then we will make it evidence in a moment, because I shall now produce to your lordships a resolution in the book of the society, for printing part of this in the *Argus*, and then I shall read that part which is printed in the *Argus*.

Lord Chief Justice *Eyre*.—You might read the whole, and then prove a resolution of the society for printing a part, because that proves them cognizant of it, having selected a part.

Mr. *Erskine*.—It may show a knowledge, but does not show an approbation?

Lord Chief Justice *Eyre*.—Certainly not.

Mr. *Attorney General*.—I will not trouble your lordship with this any farther.

Mr. *Gurnell*.—I found these papers in Mr. Hardy's house.

[They were read.]

"Fellow Citizen;—The bare-faced aristocracy of the present administration, has made it necessary that we should be prepared to act on the defensive against any attack they may command their newly-armed minions to make upon us.—A plan has been hit upon, and if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots great enough to make them formidable. The blades are made of steel, tempered and polished after an approved form. They may be fixed into any shafts (but *fir* ones are recommended) of the girth of the accompanying hoops at the top end, and about an inch more at the bottom.

"The blades and hoops (more than which cannot properly be sent to any great distance) will be charged one shilling. Money to be sent with the orders.

"As the institution is in its infancy, immediate encouragement is necessary.

"Orders may be sent to the secretary of the Sheffield Constitutional Society. [Struck out.]

"RICHARD DAVISON.

"Sheffield, April 24, 1793.

"To prevent post suspicion, direct to Mr. Robert Moody, joiner, Cheney-square, Sheffield. Please to forward the inclosed."

Addressed, "Citizen Hardy,  
No. 9, Piccadilly, London."

[The following Letter was inclosed in the last.]

"Fellow Citizen;—The barefaced aristocracy of the present administration, has made it necessary to prepare to act upon the defensive, in case of any attack upon the patriots: a plan has been formed for carrying into effect this necessary business.—Pike blades are made, with hoops for the shafts to fit the top ends: the bottom ends of the shafts should be about an inch thicker, and *fir* is recommended for the shafts, selected by persons who are judges of wood. The blades and hoops will be sold at the rate of one shilling, properly tempered and polished. The money sent with the orders.

"RICHARD DAVISON.

"Direct to Mr. Robert Moody, joiner, Cheney-square, Sheffield, to prevent the post-master's suspicion."

Addressed.—"To the Secretary of  
the Norwich Patriotic Society."

Mr. *Attorney General*.—We will now prove that there was a person of the name of William Cammagne connected with the Sheffield

Constitutional Society; and that those letters are of his hand-writing.

*William Cammage sworn.—Examined by Mr. Law.*

Were you a member of a Society for Constitutional Information, at Sheffield?—Yes.

When did you first begin to be such member?—About the latter end of the year 1791.

Did you ever act as secretary to that society?—Yes.

For how long?—I cannot exactly tell the time; perhaps near five or six months.

When did you cease to act in that capacity?—About the latter end of April or May of the last year.

Did you in that character write letters for the society?—I did not—I used to sign the letters.

By whom was the business of that society managed?—I cannot speak positively; by different persons.

Did they form a committee? or in what other manner did they conduct the business of the society?—Yes, there was a committee.

Who were the leading persons of that committee?—One David Martin used to attend that committee, John Alcock, George Widdison, Matthew Lodwin.

*Mr. Attorney General.*—It will be necessary to call the attention of the Court and the jury to the names, to see how many of the people here named were of that number of twelve, that were associated into the Constitutional Society about the beginning of May 1792.

*Mr. Law.*—In the conversations amongst the members of that society, what was the professed object at the time when you first became a member?—A parliamentary reform.

Did that continue to be their professed object? or did they profess any other, and what object, towards the latter part of the time of your continuance with that society?—That continued to be their object during my secretaryship.

Did you continue to communicate with that society as a member of it since you ceased to be secretary?—Yes.

What was the professed object subsequent to that time, after you ceased to be secretary, and continued to communicate with them as a member?—I cannot speak properly to that; there will be another secretary examined, that can speak more properly to it than I can.

Do you remember the society at Sheffield choosing any person to be their delegate to the Scotch Convention?—Yes.

Who was the person chosen?—Matthew Campbell Brown.

Do you know whether Brown went upon that delegation?—I believe he did.

Do you know whether he was ever taken into custody?—I believe he was.

Did you go down to him at the time he was in custody?—He was at large when I went to him. I was sent down to him at Edinburgh by the society.

What were you sent to him for?—To carry him a supply of cash.

Did you so?—I did.

What sum of money?—I took him, I believe, to the amount of ten pounds from Sheffield; and I called at Leeds, and took him near the same sum from Leeds.

Did you carry him money from any other societies?—I did not.

Do you know how the money you so carried him was collected?—I cannot tell.

*One of the Jury.*—Did you go to Scotland with this money?—Yes.

*Mr. Law.*—Did you see him at Edinburgh?—I did.

How were your own expenses defrayed?—At the expense of the society.

Whom did you receive the money immediately from?—I believe I received it from the hands of Mr. Gale.

Who is he?—A printer at Sheffield.

Was he a member of the Constitutional Society there?—I believe he was.

Do you remember any person of the name of Yorke or Redhead\* becoming a member of that society, before you gave up your place as secretary?—I knew one Henry Yorke.

Have you ever known him by any other name?—No.

Do you know where Gale, the printer, is now?—I do not know any thing concerning where he is.

Has he ceased to be seen at Sheffield?—Yes.

You know a person of the name of Yorke?—Yes.

Have you known him before or since by any other name?—No, never.

He attended the meeting of this society?—Yes.

Since the time that he became a member of the society at Sheffield, did he attend the meetings pretty regularly?—No, he did not.

Did he take any active part in the proceedings of the meetings when he did attend?—He used to exhort sometimes in the meetings when he did attend.

Do you recollect the subject of his exhortations?—No, they were too complicated for me at present to recollect.

Did you ever hear him mention the subject of arms?—No, never in public.

What were the means that he recommended to the society to carry into effect the objects they professed to be desirous of attaining?—A parliamentary reform.

What were the means to be used?

*Lord Chief Justice Eyre.*—How was that to be brought about?—By petitioning parliament first, that was his exhortation.

*Mr. Law.*—What was the next measure, supposing their petition rejected? what was then to be done?—I never heard any specific plan pointed out by him.

\* See his trial A. D. 1793 in this Collection post.



No specific plan?—No, no plan pointed out by him.

You said he did not in public advise the use of arms; what have you heard him advise upon that subject in private?

Mr. *Erskine*.—What he advised in private!

Lord Chief Justice *Eyre*.—If he is proved to have been at any of the Corresponding Societies meetings.

Mr. *Erskine*.—But what a man says in private!

Mr. *Attorney General*.—He was a member of the Corresponding Society, a delegate from the Constitutional Society.

Mr. *Erskine*.—My idea is this, what an agent might say in a separate case in private—

Lord Chief Justice *Eyre*.—He is not an agent, but a party.

Mr. *Law*.—The time I am inquiring about, was when he was at Sheffield. Have you heard him in private recommend the use of arms?—The society was threatened to be dispersed in their meetings by the people of Sheffield, by the opposite party.

Upon that threat of dispersion what did he advise?—In private, the people thought it necessary that they should have arms for their defence, and he approved of it—he did not see any harm in the business, but they had a right to be armed for their own defence.

Against what?—Against any illegal attack from that party.

Who were the people that thought it necessary to have arms?—The friends of reform, to protect their meetings.

The Constitutional Society?—Yes.

Who did you hear, what member of the Constitutional Society, express such an idea?

—It was a general idea amongst a great many, whom I cannot name at present.

Did he suggest any alteration to be made in the form of the pike?—Not in that.

What other pike was shown him with respect to which he did suggest any alteration?—I believe he had another shown him.

Were you present?—No.

Did you ever hear him talk of that other pike which you believe to have been shown to him?—No—I never did.

Had you before Yorke came amongst you had any recommendation of arming for the defence of your societies?

Mr. *Attorney General*.—Did he mention any country in which pikes had been used?—No—I never heard him mention any thing of the sort; of pikes being used in any country.

Mr. *Law*.—How soon after this pike was shown to Mr. Yorke do you know of any being begun to be made at Sheffield?—I do not know of any before that.

Do you know of any considerable quantity being made after that time?—I do not know of any quantity not to exceed three dozen that I was concerned in myself.

By whom were these three dozen made?—By Henry Hill, I believe.

Do you know one Widdison of Fargate-street in Sheffield, a turner?—Yes.

Do you know whether he was employed in making any part of these pikes?—I have heard him say he was employed to make a dozen of handles.

Had you any conversation with Widdison in the presence of Yorke?—No.

Were you never at Yorke's lodgings with Widdison?—I have been there when Widdison has been there, but I do not recollect any conversation that passed between Widdison and Yorke.

Did you ever see a pike handle at Widdi-

Mr. Erskine.—That will not do; not that it signifies any thing.

Mr. Law.—Recollect yourself—of what number of persons might that meeting consist at which Yorke recommended them to provide themselves with arms?—No meeting, only at his own private lodgings.

How many persons were present?—I do not know that any were there at that time but himself and me.

Was there any other time besides that once when he recommended providing yourselves with arms?—I do not recollect any other time.

Do you recollect any meeting in the month of March, at which the providing of arms was talked of?—I was not present at that meeting, if you mean in this year.

Mr. Law.—Yes.—I was not at that meeting when there were arms recommended if such a thing passed. I never heard that there was a meeting of that sort. I was not present at such a meeting.

Have the goodness to recollect yourself; you were present at a meeting in March?—Not where the arms were recommended.

I am not speaking of a meeting of the society, but were you present in company with Yorke, and others, at any meeting in the month of March 1794, when Yorke recommended the use of arms or providing of arms?—I was not.

On the Castle Hill.—Do you remember a meeting on the Castle Hill?—Yes, I was at the Castle Hill.

Did he recommend any thing of the kind then?—No.

You know one Davison who lived with Gale the printer?—Yes.

Did you ever see any pikes when he was present?—No, I never did see any in his possession.

Did you in his presence?—No.

Do you know one Robert Moody?—Yes.

Do you remember any meeting in the month of April, or in any month in the year 1794 when Mr. Yorke recommended the providing themselves with arms?—No, I do not.

Do you remember any speech made by Yorke upon the Castle Hill at Sheffield?—Yes.

What did he recommend in that speech respecting the reform of parliament?—That I cannot recollect at present, not to make mention of the words he made use of.

Did he recommend to them not to petition parliament, or what?

Mr. Erskine.—What did he say? Is that a way to put a question to your own witness?

Mr. Law.—Did he recommend that parliament should be petitioned, or that they should not?—That they should not, and a resolve was passed to that purport.

Did he recommend any other means?—No.

Did you hear an address to the nation ever

talked of?—I heard something of the kind of an address to the people.

Was it recommended by Yorke?—Yes, I believe it was.

Then he recommended to them not to petition parliament, but to forbear to petition parliament; that was agreed upon, and he recommended an address to the nation? Did Yorke walk home or go home in any sort of triumph?—After the meeting was over he was conducted home, I believe, in a carriage.

Suppose you tell us the fact what you mean by conducted home?—Without horses.

Drawn by the people in triumph?—Yes.

Did you ever hear Mr. Yorke say any thing respecting a convention?—No, I never did.

Never?—No never.

Did you ever hear him mention what would be the best means of redressing grievances?—No, I never did, not a word.

And have never sworn that you heard him say a word of that sort?—Never about a redress of grievances?—No I do not know that I have.

Or any thing respecting conventions?—No I have heard him mention his disapproving of the Scotch Convention.

On what ground did he profess himself to disapprove of the Scotch Convention?—He thought it a wrong piece of business for the people to assemble, for he thought the people very much unprepared.

In what respect did he mean unprepared?—I do not recollect what he said.

Did he mention any steps that they should have taken preparatory to assembling a convention?—I do not recollect any thing that he mentioned in particular preparative to the meeting of the convention.

You were down at Edinburgh?—Yes.

Did he state any thing that they should have done before they declared themselves a British Convention?—I think he mentioned that they should have first brought out an address to the people before they declared themselves to be a convention, or to that purpose.

Mr. Attorney General.—Look at that paper, Did you ever see that before?—Yes.

Where did you see that letter before?—In the possession of Richard Davison.

At what place did you see that letter in the possession of Davison?—At my own house.

In Sheffield?—Yes.

Is that the letter we have read that was sent to Hardy? Did you ever see that paper before?—No, I do not recollect this letter.

You have seen it before?—Yes, I have.

How long had Davison lived at Sheffield?—I cannot rightly tell; he came to live at Sheffield about the beginning of this year.

Where did he come from?—From Leeds.

Was he in one of the societies at Leeds?—I believe he acted as secretary to the society at Leeds, when I went to Edinburgh.

Mr. Attorney General.—Your lordship will find his name to the letter from Leeds was



has been read. Had you any conversation about the place to which the person to whom that letter was directed was to send his answer to Moody?—That the direction in that letter should be Robert Moody from London.

Did he give a reason for that?—I do not recollect he did; there is the name of Brodie which is scratched out.

Had you any talk how that happened, that a letter was to come to him directed to Moody?—We had reasons to believe that the letters to the secretary were sometimes intercepted.

What is Moody?—A carpenter and joiner.

Had he any thing to do with pikes?—Yes.

What is Widdison?—A hair-dresser and turner.

Lord Chief Justice *Eyre*.—What had Moody to do with pikes?—He put handles, I believe, to three dozen.

What length were the handles?—I believe some were about seven feet.

What length were the blades?—About ten inches.

What shape were the blades?—About the same shape as a bayonet.

Do you mean they were fluted like a bayonet?—Yes.

*One of the Jury*.—And pointed?—Yes.

*Juryman*.—In the form and shape of a bayonet?—Yes.

*Mr. Attorney General*.—Were there any of any other shape?—No, none that were made—none that were shafted.

Were there any made that were not shafted, of any other shape?—There was one that was made before, that was not of that shape.

Was that one that was not of that shape ever shown to Yorke?—Yes, I believe it was the one that Hill took up to Mr. Yorke.

You saw that one?—Yes, I have seen it.

Those that were actually shafted were in the shape of a bayonet?—Yes.

And the handle seven feet long, and the blade about ten inches?—I think so.

What wood were the handles made of?—I believe of fir.

Was there any particular reason given why the handles were made of fir?—Not that I know of.

You see there is a reason in the letter read just now?—Yes.

*Mr. Erskine*.—This examination is not regular—for this is Mr. Law's evidence—but I do not care about it.

*Mr. Attorney General*.—Has Davison been long at Sheffield?—No.

Do you know where he is now?—No. I have never heard of him since I was taken up.

Had he left Sheffield at that time?—Yes, he had left it about a fortnight before I was taken up.

Had Gale left it?—Yes.

How long before you were taken up?—Nearly about the same time, I believe.

Did you ever hear of such a thing as a cat?—Yes.

What is that? what is the other name of it?—A night-cat, I believe.

What is a night-cat?—It stands four ways, about this shape (describing it.)

Have you seen one?—I have seen the model of one.

When?—I cannot recollect; about five or six weeks before I was taken up.

Had you ever seen such a thing before?—No, never.

What is the use of a night-cat?—The use of it, I understood, was for acting against the cavalry.

Why, how was a night-cat to act against cavalry?—I cannot tell.—I have mentioned all I can tell about it.—I never saw a thing of that sort before;—that is all I know about it.

You, a Sheffield man, must know how such a thing as that could hurt a horse?—By throwing it in the streets.

Would it run into his neck, or what other part?—Into his foot, I should suppose.

*William Camage*, cross-examined by *Mr. Erskine*.

You were asked this question by the counsel for the crown, From what passed amongst the members, what was the professed object of this society? To which you answered, a parliamentary reform?—Yes.

Was that your object when you became a member of that society?—Yes.

You say you were secretary to that society?—Yes.

From the year 1791, to 1793?—Yes.

Will you explain to the gentlemen of the jury, when you became a member of this society, in order to obtain a parliamentary reform: You were asked, what passed among the different members? What was their object? What sort of parliamentary reform was it, that you fairly, as a man, meant?—A more equal representation of the people.

A more equal representation of the people, where?—In parliament.

In what branch of parliament?—In the House of Commons.

Had you any idea by a parliamentary reform, in your own mind, when you became a member, or when you continued there, to touch the king's majesty, or the House of Lords?—No, never.—I never had that idea.

Never in your life?—No.

I ask you in the presence of God, to whom you will answer, had you any idea of destroying the king, or the House of Lords?—No, God forbid.

Had you ever, in the whole course of your being a member of that society, and a secretary, from any proceedings of the assembly, from what passed among the members, from what they said and did (I follow the question which the counsel correctly put); had you any reason to think that any of them meant differently from yourself?—No, never.—Not an individual amongst the whole society.



Then I understand you to say, upon the oath you have taken, and subject to the consequences here and hereafter, that there was no such idea either in your own mind, or from what you knew from others, what they said and what they did, in the mind of any other of the members?—Never.

When you said that the resolve was not to petition parliament, did you mean not to petition it at that time, or never to petition it, when the sentiments of the people at large could be known?—I cannot speak to that.—There was no specific plan ever pointed out, by what means redress should be obtained.

Was it ever pointed out, or from any thing which passed in your presence during all your attendance, that this change in the representation of the people in the House of Commons was to be carried by force of arms and violence?—No, never.

If you had had an idea that the members of your society, or of other societies in the different parts of the kingdom, meant by combining force to over-rule the inclinations of the people at large, and the inclinations of the parliament, would you have continued a member of it?—No, I would not.

I ask you, under the solemnity of the oath which you are under, to say, whether you ever heard any thing said, or saw any thing done, that led you to believe, or to suspect, that that was the intention of your society?—No, never.

Did you ever hear any thing said, or see any thing done, which led you to suspect, that it was the intention, even of any mischievous individuals among you?—No; I never suspected it; I never had cause to suspect any one.

If you had had an idea, independently of force, that the object you were about might ultimately have affected the safety and honour of your sovereign upon the throne, would you have continued in that society?—No; I would not.

You say you continued secretary till the year 1793.—Did you read with attention, all that you signed?—or did you take it on trust, from the opinion you entertained of the general objects of the society, that it was all as it ought to be?—I generally read it before I signed it;—I do not know that I ever signed a letter till I had read it.

Did you continue to be a member after you ceased to be secretary?—I did.

Did you continue to be a member up to the time when you were taken up?—I did.

Did you see any reason, before the time you were taken up, to change your sentiments concerning the opinions of those with whom you associated?—I did not.

Have you had any reason to believe,—I ask you to look in upon your own soul, when you answer the question,—that, though they might not intend mischief originally when associated, they began to intend mischief?—No; I never did.

When was it that your meetings began to be threatened with interruption?—It was about the month of April, I fancy; as near as I can guess, the beginning of April or March, 1794.

Do you remember the time when the convention was to meet in Edinburgh?—Yes.

Was there any thing proposed by the society of which you were a member, or did you ever hear any thing said, or see any thing done to the effect, that this convention was to put down the king, and the upper House, and to be itself the king and the parliament?—Never.

Did it ever enter into your conception, that this convention was to make laws for the public, or perform the functions of any part of the state?—No, I never understood it so.

Was it then to consider, what would be the best means in a legal manner to effect a change in the representation of the people in the House of Commons?—By petitioning parliament, at the meeting of the Scotch Convention; that was the idea that the Sheffield Society had at that time.

Whether it was not universally said, among your society (I am following Mr. Law's question) that, though a petition from a small number of individuals would be neglected, and therefore you laid aside petitioning, whether it was not the general declaration,—I am not speaking of men's secret ideas, but as far as they were manifested,—that when you had got the sentiments of a great number of a respectable part of the people, and were then to petition, at a convention, that the House of Commons would attend to your petition, though they would not attend to a petition from a small body of men?—Yes.

Was that your idea?—At that time it was.

Was that, upon your oath, what you collected to be the general sentiments of the people?—Yes, it was; and my own ideas.

Were you, while you continued a member of the society, and up to the time that you were taken up, really a friend to the British constitution, in its purity?—Yes, I was.

Had you any wish to bring into England, the desolations and the anarchies that are in France?—No, never.

Had you a wish to see the king put down from his throne, we will not even talk of his death, but had you a wish to see the king, and the royal family, put down from their state and dignity?—No; God forbid that I should ever live to see it.

Should not you have thought yourself the most wicked and abandoned of mankind, if you had remained an hour in that society, if you had thought that the wish of that society?—Yes; I should have thought so.

Did you, from what you saw, or from what you heard, suspect that to be behind the curtain, and the intentions of those people, though they expressed themselves differently?

Mr. Garrow.—I must beg to object to that question; it is for the jury, what this man suspected was behind the curtain.



Mr. Attorney General.—I certainly will not object to it.—I desire to be understood, that I, by no means, agree that it is a question that could be put, unless I consented to it.

Mr. Erskine.—And I am much more pleased to accept it, upon the attorney-general's declaration now, than to argue the point, whatever might be my own opinion concerning it.—Then, from what you observed, saw, and heard, had you any reason to believe then, or do you now believe, that, though the papers that were signed carried upon the faces of them parliamentary reform, as you have expressed it, that there was an intention, in point of fact, to destroy the constitution of Great Britain?—No; I never had reason, in my life, to believe any such thing.

You say, for the first time, you began to be interrupted in your proceedings, in 1793?—Yes.

What were the nature of the threats you received, and what were you afraid of?—We were afraid of the opposite party making an attack upon us in our meetings, or out of doors.

What do you mean by the opposite party? the king and parliament? or the people of Sheffield, of a different opinion?—The people in Sheffield, of a different opinion.

You were afraid of the opposite party, of the people who thought differently from you, that they intended to persecute you?—Yes.

Did you believe, at the time you were threatened to be interrupted, that you were doing what was legal?—Yes; we believed we were doing every thing that was legal.

Did you, for one, believe you were doing what was legal?—Yes; I did not know that I was committing any thing that was wrong. I never heard that any thing was not right.

law, for you cannot be supposed to know any thing of the law—Did you believe that you had a right to arms for your defence, under the law of your country?—I did believe I had.

Under what law?—By the Bill of Rights.

Was that the manner in which the right to have these arms was debated in your society?—I do not remember any debate.

But was any thing said about your right to have arms, if you were attacked by malicious people?—We thought we had a right to defend ourselves, founded upon the Bill of Rights, against any of those people that might attack us.

Mr. Attorney General.—Who told you that you had that right?—I have heard Mr. Yorke say so.

Mr. Erskine.—Was it ever debated amongst you, that if you were commanded by the whole authority of the state, that you were to raise arms amongst the people to support the authority of your convention as a parliament?—No; I never heard that debated.

Was there ever any hint that the laws were to be made by those twenty or thirty people at Edinburgh?—No; I never heard any such thing.

What did you consider these people at Edinburgh were to do, who were a convention from these different societies?—I cannot speak to what their business was when met together.

Were they to consider what were the best means to go on, in a legal and peaceable manner, to obtain a parliamentary reform?—I supposed so; I understood it so.

Did you know Mr. Hardy?—I never did.

Did you really think, that you were contending for rights that rendered more secure, and more permanent, the king's title?—I did: I always looked upon it as such.

of his life, he had seen them there?—It was during his life time.

Was it at any particular period of the history of the country, did he tell you?—No; he did not mention the year he had seen them in.

You know what I mean perfectly well.—Did he tell you what was going on in the country, at the time he saw them at Newcastle?—I do not recollect that he did.—I think he said it was some time about the American war;—about the close of it.

You say you expected opposition from the other party, at Sheffield?—Yes.

How came you and Davison to send a letter about sending pikes to London, in order to oppose the other party at Sheffield?—It was Davison sent the letter.

So Davison sent a letter to London about pikes, you thinking they were to oppose the other party at Sheffield?—He might have the same views in it for the people of London, as for the people at Sheffield.

You have talked about cavalry: what were the opposite party at Sheffield, who were to attack you with cavalry?—I do not know.

Why what cavalry was this night-cat for?—It was only a model of one; I never saw any made; it was never to be put in execution.

How came you to talk about cavalry?—It was when he was talking about the use of it.

Your opinion was about the opposite party at Sheffield, and Davison's opinion, of course, about the opposite party in London?—Yes.

That is what he calls the bare-faced aristocracy of the present administration?—He called it so.

What did you understand by that, when he showed you this letter, before he sent it to London, about the pikes, upon your oath?—I only, upon my oath, understood that he meant the opposite party.

Why this Davison, who meant as little as you did, was not so bold as you, for he ran away a fortnight before you were taken up?—Yes.

How came he to do that?—I believe he heard of some persons being in Sheffield; that was the report.

And so he thought so little about this innocent thing of the opposite party, that he ran away?—I cannot give any other reason.

You told us that the cheapness of the article was the reason why you thought of pikes?—Yes.

How much was the handle and the blade to cost?—Twenty-pence, I believe.

So that thirteen-pence would not pay for them?—The hoop and the blade would come to that by themselves.

If the blade and the hoop had come to London, at the price of one shilling, there would be some more expence to pay, that somebody else must provide for?—Yes; there would be the shaft to it.

Did you ever hear of such a place as the Parrot, in Green Arbour Alley, London?—No; I did not.

Never?—No; I never did.

Had you any conversation with Davison about these pikes, after he showed you this letter?—I do not recollect that I had any conversation with him at the time.

But after?—No; not that I can bring to my recollection what it was.

*William Broomhead sworn.—Examined by Mr. Garrow.*

You reside at Sheffield, I believe?—Yes.

What are you by business?—A cutler.

Were you a member of any society at Sheffield, which had the name of the Constitutional Society?—Yes.

At what time did you become a member of it?—At the first institution of the society, I think in the year 1791, when the society was first instituted.

Were you one of twelve of that society which were afterwards associated with the Constitutional Society of London?—I was not then a member of any committee, nor did I act in any public character.

That is not the question that I put to you; I ask, whether at any time you became an associated member of a society in London, called the Constitutional Society?—I never was a member of the Constitutional Society in London.

I did not ask you whether you were or not, but whether you were one of the twelve of the Sheffield Society who were associated with the Constitutional Society in London?—We were above twelve when that society was wrote to, and therefore I do not understand the question.

I will explain the question to you: your society at Sheffield were more numerous than twelve?—Yes.

And when you were more numerous than twelve, the Constitutional Society in London were written to by your society—do you agree so far with me?—Yes.

Did your society, when you wrote to the other society, propose any names of persons to be associated with the society in London?—I never heard that subject spoken of, nor any letter to that purpose.

Did you know whether you, or any other persons of the Sheffield Society, were received as associated members of the Constitutional Society in London?—I do not recollect any such persons being constituted a member of the Constitutional Society in London; I do not recollect; I have no knowledge of any such matter.

Do I understand you right, that you do recollect such a proposition moving from your society to the London Society?—Letters were wrote from one society to the other.

Proposing such a measure?—I understood that they acted in conjunction; I always understood it as such.



Did I understand you right, that one of the modes by which that acting in conjunction was to be brought about, was, that a certain number of your society should be associated with the London Constitutional Society, for the purposes of general conjunctive acting?—I do not know that any such subject was ever settled; I know no farther of the junction of the society but what passed by letter.

Did you at any time act as a secretary to the society at Sheffield?—Yes, about five months.

Was that the five months last before you were apprehended?—Yes.

When were you apprehended?—I think in May last.

Be so good as tell us for what purpose your Constitutional Society were assembled, and what the professed object of their assembling was?—The object was a parliamentary reform.

By what means was that reform to be effected?—By meeting and endeavouring to enlighten each other, and spread the knowledge both of the grievances which we considered to exist, or which were frequently wrote of and spoken of, and informing the people of the necessity of a reform, that they might unitedly move for it in the best and most unexceptionable mode.

Was there any peculiar mode by which the election of members to the House of Commons was to be effected, according to your proposition as to the right of voting?—That subject was never discussed to my knowledge.

Are you acquainted with the expression—*universal suffrage*?—I expect I am.

Was it or not the scheme of the Constitutional Society at Sheffield, that a reform was to be produced by universal suffrage?—It never was, as far as my recollection of it; it never was until the Edinburgh Convention; I never heard of universal suffrage until that time.

Was the circumstance of the Edinburgh Convention known to the Constitutional Society at Sheffield?—They sent a delegate, and therefore certainly they must know it.

Who was their delegate at the convention at Edinburgh?—Matthew Campbell Brown; but I was not secretary at that time; they called upon me to take upon me the secretaryship just after he was gone to Edinburgh.

Do you know a person of the name of Henry Yorke?—I know a person who goes by that name.

Perhaps you know him by another name?—I have heard another name.

What is it?—Henry Redhead.

And who likewise goes by the name of Yorke?—Yes.

Did Yorke or Redhead ever reside at Sheffield?—Several times he has been at Sheffield.

Did he reside there for any time?—This last time I do not exactly know how long; may be six weeks, or seven or eight weeks.

Do you know a person of the name of Gale, a printer at Sheffield?—Very well.

Mr. Yorke was not a settled inhabitant of Sheffield, was he?—No.

Did he attend the meetings of the Constitutional Society at Sheffield?—He attended almost every weekly meeting during his last visit to Sheffield.

As he was not a settled inhabitant of Sheffield, in what character did Mr. Yorke, during his last visit, attend regularly the weekly meetings of the society?—They, considering him as a man of considerable abilities, and as an orator, paid great respect to him, and he used to attend constantly once a week at the meeting which was called the committee; but it was not properly a committee, for the time of the expiration of the committee which was before, was elapsed, and another was not chose, and such persons who had been on the committee were admitted principally on account of Mr. Yorke being at Sheffield.

You have given me a good reason why he should be treated with respect when he was there; that he was a man of talents and an orator; but I ask in what character he came there?—I am totally unacquainted with that, for he did not bring any letter to us; I have heard say——

Did you ever hear him himself say?—No; I never had any conversation with him upon it.

You never heard from himself then in what character he came there?—No.

But being there, you discovered he had great talents, and was an orator?—Yes.

Did he take any part in the management of the business of the society?—He wrote several pamphlets while at Sheffield, and at several times brought some part, if not the whole of these pamphlets, in manuscript, to these meetings to be read.

Do you speak now of the weekly meetings, which were improperly called committees?—Yes.

Where were these meetings held?—At my house.

You had a commodious room there probably?—It was a small room where these meetings met, but there was a large room when a great number met.

The meeting was improperly called a committee, when they met in a small room?—Yes.

How often was the other room used?—Some two, three, or four times; I do not recollect how many during his last visit.

Was there in that room any preparation for the more commodious exercise of the talents of oratory of Mr. Yorke?—Yes.

What?—A little matter erected to elevate the speaker.

What was that called, that we may have a name to put down in our notes?—Some called it one thing, some called it another.

What did you call it, for instance?—I never called it any thing.

What was the more general name for it in the society?—Some called it the pulpit, some the tribune, but it never was christened.

But it was a commodious elevation for the



orator, and some called it a pulpit, others a tribune?—Yes.

And from this tribune Mr. Yorke addressed the society?—He did.

Besides those meetings, improperly called committees, and those meetings in which the tribune was, do you remember any meeting upon the Castle-hill?—Very well.

Was that of the date of the 7th of April?—I do not justly recollect the day, but I was there.

Was Mr. Yorke there?—Yes.

Did he there exercise himself in addressing the people?—Yes.

In what sort of manner and language?—He had a book in his hand wrote by Locke, and he expatiated very largely on the corruption that had crept into the English constitution, or rather the evils which generally are complained of, and showed there was a deviation, in some degree, from the original constitution of Great-Britain; but his manner of speaking may sometimes lead him to go farther than he ought.

Did that unfortunate fatality upon this occasion occur, that he did go farther than in your judgment he ought?—It was agreed upon that I should make a motion.

First answer my question: did it appear to you that his address that had Locke's book for its text, was more violent, and went farther than it ought?—He is peculiarly energetic, and at the same time very fiery, very warm, very strong; but at this meeting I do not know that he said any thing that was detrimental to the constitutional law of England—not at this meeting.

It was settled, you said, that you were to do something—settled by whom?—By Mr. Yorke and Mr. Gale, at a meeting previous.

At one of the committees?—Yes; that I should make a motion for a petition to the House of Commons, for a reform in the representation of the people.

For what purpose were you to make that motion as it was settled?—That it might be over-ruled.

Was it settled at the committee before-hand then, that a motion should be made that it might be over-ruled?—Yes; it was so agreed upon, and further for the purpose of introducing another motion in its place.

Did you make the motion as it had been agreed?—I did, for petitioning the House of Commons.

What was done upon your making that motion?—It was objected to with a view of making way for another, which was brought in and carried.

Whom was it objected to by; who was the objector?—There were only four of us, the other member I do not at present recollect: it was either Henry Yorke, Joseph Gale, or William Camage.

You mean there were only four of the committee that attended?—In the elevation there.

There was an elevation then upon the Castle-hill?—Yes, one of those things we called the tribune was carried upon the Castle-hill.

Then one of these persons opposed your motion?—Yes.

What number of persons might there be assembled at this meeting?—Several thousands.

A meeting in the open air?—Yes.

And then one of these persons opposed your motion, as it had been agreed, for the introduction of another?—Yes.

What was the substance of that other motion?—Instead of petitioning the House of Commons to petition his majesty, and a petition was drawn up; the parchments lay at my house.

Drawn up by whom?—By Henry Yorke or Redhead.

Was it before or after the meeting in the open air, that it was drawn up?—Perhaps it might be drawn up before, and read there: I think it was, but it was not signed till after.

Then it was left at your house for signatures?—It was.

Upon the occasion of the introducing this amendment upon your proposition, did Mr. Yorke address the meeting, composed, as you say, of some thousands?—Yes, he addressed them: he introduced that subject of petitioning the king to exercise his power for a reform in the representation of the people, and this petition was sent up to London to earl Stanhope, but he did not think proper to present it in that form.

Do you remember a day or two after the meeting upon the Castle-hill, being in company with Gale and Yorke at your house, when any application was made to Yorke upon the subject of the speech he had delivered to the people upon the Castle-hill; do you remember any application to him a day or two afterwards, upon the subject of printing his speech?—I remember something being said to him upon it at my house.

Did he agree to print his speech?—To the best of my recollection, he did.

Was it printed?—It was.

Did you see it afterwards in print?—Yes.

From having heard it upon the Castle-hill, could you form an opinion, whether the printed copy which you saw afterwards, was a pretty accurate statement of what passed?—

The substance of the matter he delivered there, I believe it contains.

Was that published at Sheffield?—Yes.

Do you believe this to be one of those publications [showing it to the witness]?—I do.

Did you receive afterwards from Yorke, any number of these pamphlets for any purpose?—I did not receive them from Yorke, but I received them at Gale's shop.

Did you do any thing with them by the direction of Yorke?—It was by the direction of the meeting, previous to their being communicated to different persons.

Do you mean the general meeting, or the



private meeting?—The private meeting directed they should be communicated to different persons.

Did you, in consequence, make up any packets of them, and do you believe these to be two of the packets [showing them to the witness]?—They are: they are directed to me according to order.

How many might you direct in that manner in separate packages?—I do not recollect exactly, there might be twenty-four, or more.

What was done with these, after you had made them up separately, and addressed them to the different persons?—They were lapped up and directed to certain persons, and then all put together in a box.

To whom were they sent?—To the best of my recollection they were sent to Thomas Hardy.

What was your situation in life before you were applied to to become the secretary of this society?—I was a cutler.

Were you working at your business?—Yes, when I had any business to work at.

Were you applied to to become the secretary, or did you apply for it?—I was applied to.

By whom?—By one of the members, John Alcock.

Were you paid anything for your trouble?—Yes.

What was your inducement to take that office upon you?—I should not have taken it upon me, if I had not been applied to.

What induced you to do it?—The war destroyed my business.

Am I to understand that you did it to increase your means of support?—I did.

Did it come to your knowledge, in your character as a member of the society, or otherwise, that there were any preparations of arms of any sort at Sheffield?—I heard reports as other people might do, but purposely avoided meddling, in thought or act, with any matter of that sort.

Did you in the society, or from the members of the society, hear of any proposition for providing arms, or that any were in preparation?—I did, and it is proper that this should be well explained.

Explain that.—A few days before this meeting, when it was spoken to as being the right of Englishmen to have in their power means of defence, a hand-bill, a spurious hand-bill was published in Sheffield, with an intention to provoke the society to some unjustifiable measures, and it was spoke to in the meeting, that it was their right to have them in their own defence, and Joseph Gale spoke to it; he was the man. This wicked hand-bill was not signed by any magistrate; it was thrown about the town in the dark; it caused an agitation in the minds of the people, and it was spoke of as being the right of every individual there, to have such and such arms according to their rights, lest any tumult or riot should break out. I am happy to speak of this, and

I should be happy to see that advertisement, with what was said at this meeting, which was published in the Sheffield paper the week after.

Was this hand-bill distributed previous to the meeting upon the Castle-hill?—To the best of my recollection it was after that meeting.

Was the subject of procuring arms publicly discussed or in the private meetings of the society?—It was at a public meeting Mr. Gale spoke of our rights.

A meeting in your large room?—Yes.

A public meeting of the society?—Yes.

By the society only?—There were many others that were not members there, as well as others.

How did they come? were they introduced by members?—The tickets were not regularly delivered, I believe, at that time.

Then members introduced visitors?—Yes.

Did you see any arms, or any model of any?—I never saw a pike till I saw one when I was brought to London.

What sort of arms were they that were talked of, as fit to be had for the purposes stated?—Pikes were talked of, but I never saw one till I was brought to London.

I do not know whether you heard any thing of the night-cats?—I saw a model of one, but it was only like the play-thing of a child.

Now we will have an account of the manner in which children play at Sheffield, what sort of an instrument was it?—A little instrument standing up with a point about one inch high.

One of the Jury.—It was in a ball was it not?—No.

Mr. Garrow.—It had four cross points?

Juryman.—Were there only four of these?—I think there were four.

Mr. Garrow.—So that if you threw it down it always presented a point.—That did.

How long is that point?—This was about three quarters of an inch.

Only made just to show what the sort of thing was?—Yes.

Was there any other purpose for which these instruments were spoken of in the society to be made, except playing with them as children?—Never any mention made of them in the society at all.

Where did you see the model?—At the house of one Benjamin Dunn.

Was he a member of the society?—Yes, but it was not he that produced it.

Who produced it at his house?—I think they call him Charles Rhodes.

Had you ever seen such a thing before?—I never did.

You naturally were led to ask its use and the purpose for which it was to be constructed. What was stated to be the purpose of this play thing?—I do not recollect any conversation upon that head, but it was taken and thrown upon the floor.

Was that act of throwing it on the floor, and of course its presenting one of its points ac-

accompanied by no description of the use it might be applied to, besides playing with it?—What might be said that night might not be serious.

When talking of a play thing one is not serious; now, serious or not, what was said of it?—Nothing was said, but he brought it to show them.

What was said, serious or not serious, as to the use to which that night or could or was intended to be applied?—I cannot call to mind any thing that was said, but this only, that he came to show them that such a little boy, whose name he mentioned, had made it, and showed it them.

Was it called by any name?—I heard no name of it till I came to London, there it was called a Cat.

A night Cat, or day Cat, or any thing of that kind?—I heard no name whatever.

Was there any conversation at that time when it was thrown upon the floor about Cavalry?—I do not recollect any conversation at all, but merely the throwing it upon the floor.

You said just now that the conversation, such as it was, might not be serious?—No, laughing at it.

Upon your oath was there any conversation serious or not with respect to Cavalry or the town of Newcastle?—Newcastle was not mentioned there, it was not at the same place I apprehend.

Where was it that there was conversation about the town of Newcastle?—I know nothing about any conversation about Newcastle.

Upon your oath were you never present when that model was produced, and when there was a conversation about Newcastle?—Upon my oath I never was.

Then you never heard any conversation at Sheffield about this night-cat or this model of a night-cat with respect to cavalry?—I do not recollect any conversation about its use but a mere trifling, desultory, pleasing, irregular conversation with one another.

Now that trifling, pleasing, desultory, irregular conversation I want to have.—I am sure I cannot recollect it; if I could recollect it I would.

Try, do not hurry yourself.—I cannot recollect any thing that was said, only his taking it out of his pocket, showing it us, and throwing it on the floor; there was no regular conversation, no debate whatever about it.

And the nature of the desultory observations that were made you do not recollect?—He showed it to the company as being the production of a boy, a child, I remember that perfectly well.

It was a thing that you had never seen any thing like before?—I believe I never had.

You contented yourself with seeing it thrown down, and looking at one of its points?—I had nothing to do with it whatever.

VOL. XXIV.

You told me that at the meetings at the Castle-hill, Mr. Yorke, though in general warm and energetic, and disposed to say strong things, did not say any thing that was detrimental to the constitutional law of England, were you present at any other meeting where his speeches were not quite of that character?—I have been present at other meetings when he has not been so well guarded as he was at that meeting.

Perhaps those might be meetings of the society only?—So called, of the society only.

But with visitors admitted, he so good as tell us the tendency of his discourses when he rather gave himself liberty, when he followed the impulse of his nature?—If I had noted them down, I might have been able to have repeated them.

I do not expect you should give us them in his manner or precise words, but give us the substance and effect of those expressions which appeared to you to be unguarded?—I do not justly recollect at present.

Endeavour to recollect?—I may have heard him when conversing in those meetings, sometimes he was very warm to be sure, and might drop unguarded expressions.

Such as what unguarded expressions?—Comparing what he looked upon to be the grievances under which we laboured, with the privileges which Englishmen once enjoyed, he might step out of the way.

What expressions did he use which appeared to you to be unguarded?—I heard him use one expression,—but for my own part I will not presume to put a comment upon it,—he expressed himself to this purport, that we were in a low despicable situation, and rather than submit he would go up to London with the people there present.

Who were *we*?—We Englishmen were in such a condition, that rather than submit to it he would go up to London with the people there present, but he did not say for what.

How many were the people present with whom Mr. Yorke was to come up rather than to submit to the degraded state in which the people of England were?—There might be perhaps 150, or perhaps 200.

Was this at one of the meetings of the society?—With some others.

One of the general meetings?—Yes.

Composed of members of the society and of others?—Yes.

One of the *Jury*.—He would go up with them to London, and what then?—He did not draw any inference.

Mr. *Garrog*.—Was that after you had heard any thing upon the subject of arming?—I think it was before; to the best of my memory it was before that, but I am not perfectly clear in that.

Was that delivered from the tribune?—Delivered from the place which was sometimes called so, and sometimes called a pulpit.

It was from the orator's elevation that this speech was delivered?—Yes.

2 R



Perhaps having brought that to your memory may enable you to recollect some other accompanying expressions?—I do not recollect any other that gave me any pain at the time, what was the cause of my remembering that, was the pain I felt at the time.

What was it that occasioned any sensation of pain in you at that declaration of Mr. Yorke?—Why, I fear God and honour the king.

And therefore you felt pain at that declaration of Mr. Yorke?—Yes.

Now, either at that or any other of these meetings, do you recollect any of these expressions of Mr. Yorke?—I do not recollect any expressions that so struck me as that.

I do not know whether you have seen this paper before? [showing the witness a printed paper]—I never saw this, but I saw one from which this was taken.

Have you seen a pamphlet of which you believe that to be one copy?—Yes.

Look at this [showing the witness another printed pamphlet, "the fast-day as observed at Sheffield"] have you seen that before?—I have.

Do you remember the circumstance of a proclamation for a general fast to be held the 28th February, 1794?—Yes.

In what manner was that fast observed upon the Castle-hill at Sheffield?—It was not at the Castle-hill.

Where was it?—At the top of the town in another place.

In the open air?—Yes.

Were you there?—I was.

What number of persons do you think might be assembled for the purpose of observing that fast?—Not so many.—

Lord Chief Justice *Eyre*.—How is that evidence.

Mr. *Attorney General*.—Your lordship will recollect that we read a resolution from the books of the Constitutional Society, thanking the people of Sheffield for the manner in which they had spent the fast-day.

Mr. *Garrow*.—With this addition, that the printed paper in my hand was found in the prisoner's possession.

*Broomhead*.—I cannot ascertain the number, but there were not so many as upon the Castle-hill.

About how many do you think might be assembled?—I cannot tell properly, there might be a thousand or two.

Tell us the manner in which you, together with that assembly of a thousand or two, celebrated that fast; is the manner in which it is represented in this printed paper that I showed to you correct?—To the best of my knowledge it is.

What might the number of your society properly so called amount to?—Nearly 600, more or less.

Are you divided into divisions?—Such a mode has been advised, but was not regularly kept.

By whom had that mode been advised?—

I do not recollect because that was advised, I believe, before I was a member.

Do you think that 600 was the full amount of the members of your society at its greatest extent; do you believe it ever amounted to 2,000?—No such thing, because I wrote the tickets down.

The distribution into divisions or sections was not regularly executed?—No.

What was done towards that?—There were a kind of books delivered, called district books; they were not regularly attended to, that is all I can say about it.

What was the object of the distribution of these district books, where did they issue from?—They were printed by Joseph Gale.

By whose directions?—They were printed before I joined them.

Were the society's books printed by Gale, one of your members a printer at Sheffield?—Yes.

To what persons were they distributed, and for what purpose?—The members of the society, divided into as we may term them sections, they were called districts.

What was to be the mode in which these districts of the society, were to assemble themselves?—They were to meet if they thought proper, to collect pennies, a week principally, a penny a week from each member.

Were there any regular periods at which the several sections or divisions were to communicate in one general assembly, or was that left to an emergency?—Such a thing was mentioned, but it never was executed.

What was mentioned, but not executed?—About these persons meeting to whom the book was delivered, but it was never put in practice.

So that the district meetings were not so regularly attended to, if I understand you, as the general meetings of the society?—No, not properly attended to.

Mr. *Edward Lauzun* called.

Look at these pamphlets (the fast-day as observed at Sheffield, and a serious lecture), where did you find them?—I found both these in Mr. Hardy's house.

Mr. *Garrow* to *William Broomhead*. After the serious lecture was read, there was a hymn prepared I believe?—Yes.

Who prepared that hymn?—Gale printed it. Who composed it?—I believe it was composed by one Montgomery.

That was sung in full chorus by the whole assembly?—Yes it was sung.

By whose order were these two pamphlets printed and published?—I believe they were printed by Joseph Gale.

By whose order, and at whose expense?—They were sold.

But there is an expense incurred, in printing and publishing before the sale reimburses?—Joseph Gale did not receive any money before the sale.

Who ordered it to be printed?—I believe it was a private matter.

Who furnished the copy to Gale?—I do not know for certain.

Who read the lecture?—A gentleman from Halifax.

Do you know of any proceedings of the society, of the committee, or of Yorke, respecting printing and publishing these two pamphlets?—I do not recollect any at present.

Were they in general distributed through the town of Sheffield?—They were sold.

Do you know of your own knowledge whether the sale was extensive or not?—I think not very extensive.

There is a prayer, who composed that, do you know?—Myself.

Whom was that delivered by?—By myself.

From notes, or extempore?—It was extempore.

You had written it, and committed it to memory, perhaps?—Yes.

What became of the copy?—Indeed, I do not know; I took no account of it; it was delivered to be printed.

By whose directions?—I do not recollect; it was at a private meeting that that was spoken of.

A private meeting of what?—Several members of the society.

Tell me, if you know their names, John Paine, of Newhill?—I have heard the name, but I do not know the person.

Was he a member of the society?—I believe he might be.

Mr. Garrow.—It is in evidence, that he was one of those sent up by their secretary to the London society.

You know Joseph Gale?—Yes.

He was a member?—Yes.

And Joseph Smith?—Yes.

And David Martin?—Yes.

Mr. Garrow.—It is not worth while going through the names; they were sent up to the Constitutional Society, to be affiliated with them, which is proof that they were members.

Extracts read from a printed pamphlet, intitled, "Proceedings of the Public Meeting, held at Sheffield, in the open air, on the 7th of April, 1794;" and also an "Address to the British Nation, being an Exposition of the Motives which have determined the People of Sheffield to petition the House of Commons no more on the Subject of Parliamentary Reform. Printed for the Sheffield Constitutional Society."

"Proceedings of the Public Meeting.

"In pursuance of a public advertisement, a general meeting of the Friends of Justice, Liberty, and Humanity, was held, at three o'clock on Monday, the 7th of April, 1794, on the Castle-hill, in Sheffield, to consider upon the propriety of addressing the king, in behalf of the persecuted patriots, citizens Muir, Pal-

mer, Skirving, Margarot, and Gerrald; also of again petitioning the House of Commons for a reform in the representation of the people, and to determine upon the propriety of petitioning the king, for the total and unqualified abolition of negro slavery.

"Notwithstanding the inclemency of the weather (very severe rains having fallen until within a quarter of an hour of the appointed time of meeting), from ten to twelve thousand people were assembled on the occasion:

"HENRY YORKE having been voted to the Chair,

"The business was opened by reading the following Address to the king, in behalf of the suffering patriots:

"TO THE KING.

"An Address from the Inhabitants of the Town and Neighbourhood of Sheffield, in the County of York.

"SIRE;—We, the undersigned, being warm friends of liberty and the rights of man, feel ourselves deeply affected by the sentences which have lately been passed in your majesty's courts of Scotland, upon citizens Muir, Palmer, Skirving, Margarot, and Gerrald.

"Had these men been really guilty of crimes, their punishment should doubtless have been proportionate to their offences; but, so far from considering it as a crime for a man to use every constitutional means in his power to effect a reform in the Commons House of Parliament, we think that every man who thus exerts himself, deserves well of his country; since we are persuaded that nothing short of the accomplishment of such a reform will restore peace and happiness to our present aggrieved and injured nation.

"We trusted also, that your majesty entertained the same opinion with us of such exalted conduct, from your majesty's having chosen for your most confidential servants in the state, men who had singularly distinguished themselves by their patriotic exertions in the cause of parliamentary reform:

"But the friends of these sufferers having brought their case before parliament, without producing the desired effect—the principal of these very servants of your majesty having opposed the measure with all his corrupt, but irresistible influence—seeing no other resource, we approach your majesty in this address, to intreat your majesty to interfere in behalf of these (whom we deem) innocent men, with that power which the British constitution has placed in your majesty, of pardoning whom your majesty pleases—a privilege which is sometimes graciously extended even to real and palpable criminals.

"Let it not be recorded in the history of this country, that king George 3rd, or any of his judges, transported men for fourteen years, because they had dared to speak the same words upon a speculative subject, which, if they were not the immediate means of ad-



vancing his majesty's then prime minister to his high situation, caused his election to be remarkably popular: let it not be said, that men of education, of refined sentiments, of the most virtuous and benevolent characters, were severed from their dearest connexions, and plunged into dungeons with thieves and prostitutes: let it not be said, that fathers were torn from their wives and children, and sons from their aged parents, because they had the virtue openly to condemn the acknowledged corruptions of government, and to exert every peaceable means in their power to remove them: let it not be said, that it was as great a crime to speak the TRUTH, as to be guilty of FELONY.

"But rather, O king, let it be recorded, that George 3rd had the wisdom, the humanity, and the justice, to step in betwixt these severe and cruel sentences and their execution.

"These are our desires—these our plain sentiments. We know they are such as your majesty is unaccustomed to hear; but, if they are supported by truth and reason, suffer not the homeliness of our manner to offend your majesty. We are plain men, and will not flatter a king. If our wishes be attended to, we are persuaded it will, in some good degree, hush the murmurs which unreasonable severity in a government never fails to excite; and it may also avert that storm, which it is but too evident has long been awfully gathering, and which may burst forth in a moment when your majesty thinks not."

"The address being read, and received with repeated applauses, HENRY YORKE addressed the meeting in support of the measure. He observed, that the cause for which our countrymen were now suffering, was the same as had been advocated in the year 1783, by Mr Pitt, the duke of Richmond, and other men, who were at this time pensioners and placemen under the actual government; that a convention, for the purpose of obtaining a parliamentary reform, had been held at the Thatched House Tavern, in which these men went as delegates, or acted as assistants; that it was cruel, if not unjust, to punish men for following the example which those in power had set them. The question was not a question of convenience, but of right.—It was not enough to say, that the people were formerly represented, but that they had a right to be represented now. Did the ministry, therefore, mean to assert, that what was right to-day, was wrong to-morrow? Did they mean to declare, in the face of the world, that what was in conformity to the maxims of justice at that time, should, in so short a space, be deemed unjust, and punished as a crime?"

"After having expatiated considerably on this very important subject, he proceeded with observing, that in all countries where severe and sanguinary punishments were encouraged, men would have no affection for the government."

obedience to it could result solely from motives of fear. That liberty of opinion could not be denied to any free country, without denying at the same time the rights of the people. That nothing argued more strongly against a government than the uniform design of depriving the people of this liberty; that it was a proof that something *went wrong*; and that even governors were ashamed of their conduct, when the right of discussion was violated, or put an end to. The civil liberty we enjoyed in our country was the effect of political discussion; and its political liberty would have long since been restored and secured, if our rulers had not interposed to weaken or annihilate this right: first, by giving a power of decision to judges, which the ancient law of the land did not acknowledge: secondly, by confounding the truth with the fact of publication: and, thirdly, by having punished with the utmost severity libels in private cases, to prepare the public mind for those severe sentences in public ones, which dishonoured and irritated the nation. It had been lately the fashion to confound government with the constitution, and the ministry with the government. To oppose, therefore, the mad and wild, if not criminal schemes of administration, was to oppose government, and, by this mode of reasoning, to oppose government was to be an enemy to the constitution. A government can never give a more authentic proof of its propensity to tyranny, and of the impropriety, as well as impolicy of its measures, than by restraining or forbidding the liberty of discussing publicly matters of legislation and policy. It is debasing the character of man, as an intellectual being, to deny him the right of inquiring into that which even governors allow was made for his use, namely, government.

"To punish inquiry, severity is exercised for imaginary guilt. But what is the effect? Mischief is prolific: violence in government begets resentment in the people, who murmur and exclaim: government is provoked, and studies vengeance. When one act of vengeance is exposed, more always follow. Affection is lost on both sides, and, what is worse, is irrecoverable. Hatred begins; and the government and the people being at variance, consider each other no longer as magistrate and subject, but as mutual enemies. Hence the inhuman wish of Caligula, that he could murder all the people at one blow. The sequel is in order: he is continually destroying them; they are continually wishing him destroyed. Such conduct had the fatal tendency of cramping the genius of men, and of replunging the nation into a state of barbarism with regard to their religion, their laws, their morals, and their government, and to keep them ignorant of the most important concerns in their trade, their splendour, their felicity; whilst all the nations around them were improving themselves in morals and

policy, by the daring efforts and concurrence of enlightened men, whose views were directed to those objects alone which were really worth their attention. The reasoning of a government, which prohibits information, is defective in every particular; its progress is not to be stopped, nor even to be checked, without manifest disadvantage. Prohibition has no other effect than to irritate men; to inspire them with an idea of insurrection, and to give to all their writings a libellous tendency. Severe and arbitrary sentences may intimidate, but they cannot convince a nation. It is by reason and argument alone, opposed to apparent reason and apparent argument, that a government can hope to be victorious over its internal enemies, or render itself permanent by the quiet and conscientious concurrence of all its citizens. It is doing too much honour to innocent subjects to be alarmed at a few pages of writing, or at a few fugitive orations, when barracks are erected in a country, and 60,000 armed mercenaries are ready to execute the mandates of government. Experience had proved, that the rigorous prosecutions which had lately taken place throughout England, and that the cruel sentences which had disgraced the capital of Scotland, had not answered the purpose of establishing arbitrary power, and of crushing the rebellion of honest minds. Although there is no spirit so erect and independent as not to be broken by the long continuance of the silent and inglorious sufferings of a gaol; yet it had been found, that men were proud to step forward in this most stormy season, when such terrible examples of legal vengeance had been held up before them, to plead the ancient rights of their country, to unmask the infamy, intrigue, and murderous projects of administration, and, according to the principles of the purest benevolence, to assert the liberty of the whole human race. The present times bore a strong and marked resemblance to those terrific ages when priests held their dominion over the minds and consciences of men, and when they endeavoured to establish the reign of intolerance and orthodoxy amidst flakes of fire, and streams of human blood. All history had evinced, that every attempt to curb and bridle the expansion of the human mind had been ineffectual; it had evinced, that opinions, though smothered for a time, burst forth with redoubled fury, and were victorious over power; it had evinced the triumph of reason and truth over prejudice and superstition, and that liberty, whether of opinion or person, however slow in its progress, had uniformly moved forward towards its destined goal; and that even, at this moment, the interruptions which had been opposed to it in our own country, although they might be injurious to individuals, would finally obtain, confirm, and establish the rights of the people. Conscious of their uprightness, the friends of freedom had persevered in their

noble cause, unappalled by the influence of spies and informers, and by the threats of a corrupt, a crazy, and wicked administration. In so doing, they had acted in perfect conformity to the principles of virtue, without which no man could be a friend to his country, and a lover of mankind. Its essence consisted in the regulation of our conduct by such moral axioms as are best calculated to promote the general happiness of our fellow-creatures; and as it frequently happened, that the happiness of the individual stood in direct opposition to that of the public, it is the perfection of virtue in individuals to sacrifice their own happiness to that of the public. A man, in possession of this virtuous principle, feels delight whilst actually burning in the brazen bull of Phalaris; and such, he trusted, was the actuating principle of these generous patriots, who are become willing victims of the most barbarous and savage sentences that ever had been pronounced in Britain; who had made a glorious stand against arbitrary power, and who broke loose from the fondest endearments of human life, in the hope of redeeming their lost country from the fangs of a dark and brooding prejudice, and from the horrors and turpitude of an ignominious slavery.

"It was the tyranny of the British government which drove William Penn, with the philosophic people called Quakers, to the delectable regions of Pennsylvania, where, by toleration, industry, and permanent credit, they revived the simplicity of the primitive ages of society. It was the same tyranny which has driven into voluntary exile, or forced by law into banishment, the most virtuous of men, the first of philosophers, the most exalted and courageous band of patriots that ever honoured the soil of Britain. Among the former Joseph Priestley, one of the most profound philosophers of the age, and most meek and amiable of citizens, claims the sad pre-eminence; and among the latter, stand the names of those persecuted patriots, in whose behalf we are now about to address the executive magistrate of our country—a noble and a generous band, whose sufferings do not claim our pity, because they boil up our rage; whose sentences disgraced those who pronounced them, not those on whom they were pronounced; whose condition is enviable, because honourable, and to the whole of whose opinions and conduct, no good man, or honest citizen, can give one dissentient voice! In times like these, when a man is mocked and insulted, because he bears the name of a patriot, an epithet once honoured by the people of England; at a time when those who have the courage and magnanimity not to flatter their country, are deserted, betrayed, and persecuted, what honours are sufficient for those who thunder truth against tyranny? What disgrace ought not to await those timid beings, those negative patriots, who keep aloof from the scene of



action, and riot on their country's wrongs? When our nation shall be regenerated, these persecuted men will wear civic crowns. In the political, as in the moral world, the friend who appears to soothe our distresses, excites our esteem; and he who, in calamitous times that try men's souls, sacrifices interest, friends, and home, in order to save his sinking country, merits well, not only of every Briton, but of all mankind, and even of the government under which he lives.

"Fellow Citizens, the day is at length arrived, when fanaticism and superstition, deprived of their tinsel trappings, and exposed, in their native ugliness, to the view of mankind, slink scowling back to the cave of obscurity; there I hope they will for ever remain. The energy of Englishmen will no longer endure this strange uproar of injustice. I trust my countrymen are sick of religious and political imposture; and that their decisive and manly conduct will command, in an imperious tone which will take no denial, not a melioration of these enormous abuses, which would be to compromise with injustice; but I trust they will demand the annihilation of corruptions and abuses, and a restitution of the original rights of human nature. I ask of our governors, this plain question, is it better that the people should be in a constant state of stupidity, than that they should be sometimes turbulent?—Ministers of state, if ye mean to be wicked, suffer the people to write and speak; you will find men corrupt enough to serve you according to your evil desires, and who will improve you in the art of *Sejanus*. If you mean to be good, permit them to write, you will find some honest men who will improve you in the art of a *Turgot*. How many things are ye still ignorant of, before you can become great either in good or in evil? I see no glory, no advantage, no pleasure, no safety, in any man reigning as a sultan over slaves. Such a horrid pre-eminence furnishes the lustre of the most exalted station. It is, besides, precarious, for sultans are frequently deposed, and vengeance wreaked upon them.

"I need not invite you, fellow citizens, to feel for any human being who suffers, much less need I solicit your approval of the present measure, after the general testimony of satisfaction you have given of it. You are too enlightened to need the aid of any instruction from me, and your understandings are too much awakened to require that your passions should be played upon. Whilst the unerring tribunal of posterity shall condemn with scorn and derision, with execration and disgust, those inhuman beings who have been the causes of such unexampled and inhuman severity, our persecuted brethren will obtain a verdict of honour and glory. I may venture to say, that beloved by the present age, future ages shall heap around their monuments trophies of undying fame; and an exasperated and repentant people, shall enroll their names

in the volume of history, which records also the names of Sidney, Hampden and Locke!

"The following Resolutions were then read three times over, and with the exception of one or two persons, were unanimously adopted:

"1. That the people, being the true and only source of government, the freedom of speaking and writing upon any subject, cannot be denied to the members of a free government, without offering the grossest insult to the majesty of the people.

"2. That therefore the condemnation of citizens Muir, Palmer, Skirving, Margarot, and Gerrald, to transportation, for exposing the corruptions of the British government, was an act better suited to the maxims of a despotism than a free government.

"3. That the address which has now been read, be presented to the king, in behalf of the above persecuted patriots.

"On the second resolution being proposed, an hiss was heard from different parts of the meeting, in consequence of one or two persons holding up their hats against it; on observing which, H. YORKE thus addressed the meeting:

"Fellow Citizens;—As your chairman I call you to order. As an individual, I must observe, that this hissing is repugnant to the principle of toleration or freedom, which we wish to see established. We have this moment read, and given our assent to, an address to the king in favour of liberty of opinion; let it not be said, that we are the first to violate that liberty in others, which we claim for ourselves. Opinions will always vary, even amongst the wisest and best of men. We are bound, therefore, to show tenderness to the opinions of others, and compassion even to their prejudices. Let our enemies see that we consecrate by our example, what we desire to see established as a principle. Hisses do not convince; they tend only to irritate the minds, and to beget the ill-will of our fellow citizens; let us, on the contrary, confront them with the weapons of reason and truth, the only logic of liberal minds. Every thing which has a tendency to stir up the passions without awakening the understanding is unbecoming of freemen, or of men who would be free."

"These well-timed observations had the good effect of preventing any further signs of intolerance; and the utmost decorum prevailed throughout the conduct of the business.

"It was next moved, 'that a petition be presented to the House of Commons, for a reform in the representation of the people in parliament;' but so marked was the disapprobation given by the whole meeting to this measure, that not one single person seconded the motion; but a most profound silence, interrupted only by a few murmurs, was observed: upon which, Henry Yorke again rose, and addressed the meeting in an animated



speech of an hour long, and of which it is impossible for us to give our readers a just conception. He took a general view of the British constitution, and stated its most prominent defects; among which the want of a perfect national representation was the most glaring. He dwelt a considerable time upon this subject, and then proceeded to take a rapid survey of the exertions which had been made at different periods, and by different persons, to promote the cause of parliamentary reform.

"He observed that the subject was become a mere bugbear, employed to deceive the people, and worked upon as an engine to raise into power, needy and ambitious men: that the very same men who in opposition had declared that it was the only measure of saving the country from ruin, were the first to reprobate and scout the measure of reform when they were in power. From the corruptions of the British government, parties had been generated, which in their route to power, had convulsed and plundered the empire. Under the distinctions of names, principles had been forgotten; and for the sake of leaders, whom the people had foolishly idolized, the machine of government rolled on amidst the feuds and contentions of party. Eternally the peace of our country had been disturbed by the rancour and animosities of factions, and the people, instead of turning themselves to correct the gross evils which existed in it, had ever been the tools of base and designing men, and seemed prepared to whet and sharpen their swords one against another.

"It was now high time that the people should lay aside leaders, discard factions and act for themselves. He strongly enforced these principles, and then entered into a complete detail of the ancient constitution as established by Alfred, which he proved to be at this time totally defaced, if not lost. He then pursued the gradual decline of popular liberty in England, from the anarchy which was the consequence of Danish and Norman invasion; and taking a general sketch of our history, so far as it was connected with the subject of popular representation, he made some strong and pointed remarks on the Revolution in 1688, the object of which, he said, was not, could not be answered, unless annual parliaments and general suffrage were restored. For this he had the authority of lord Sommers, who drew up the declaration of rights, and who was promoted by William 3rd for his popular exertions at that memorable epoch.

"In order to prove that the Revolution had not corresponded with the expectations of the people, no sooner was the prince of Orange established on the throne of England, than all ideas of the ancient mode of annual parliaments were effaced, and the TRIENNIAL ACT was passed in the very face of that revolution, and in direct contradiction to its principles; for the revolution, at least so far as it respected the people, was not intended to be a compro-

mise between the king and the aristocracy, for the joint inheritance of the people, but to establish on unequivocal principles the right of the people to govern themselves, and to recall those delegated powers which they had entrusted to their servants for this purpose, when they were either abused, or neglected to exercise them. If the revolution were not a revolution for the people, it was no revolution at all, but a conspiracy of a few ennobled oppressors against the liberties and happiness of the many. But if it were designed to comprehend the people, and its end has been perverted, or purposely laid aside, the people are not warranted in *petitioning*, but are justified in *demanding as a Right*, agreeably to the tone of language used in the declaration of rights, the restitution of annual parliaments, and the establishment of universal suffrage. But the shock which was given to the stability of these principles, was most infamously flagrant, by the enacting of the SEPTENNIAL ACT, in the reign of George 1st. If the act of parliament in the reign of Henry 6th, erased from the roll of citizenship some of the best members of the community; the enacting of the triennial and septennial acts, filled up to the brim the measure of governmental iniquity, and poured forth the waters of bitterness throughout our land.

"FELLOW CITIZENS;—Enough of precedent. The human race has long been rolling down the tide of ages neglected, untried, and oppressed. It is high time that the devious course of human policy should not be left to the uncertain issue of storms and of elemental wars; but that the machine of state should be guided by the polar star of reason alone, which is never seen but when the majesty of the people is resplendent. What is beneficial in the example of ages, we ought to reserve with caution. What is injurious, and what is only tolerably competent to answer the common purposes of society, ought to be abolished. We insult ourselves, when we abjectly distrust the powers which nature has given us; nor ought we passively to acquiesce in institutions which, though injurious, may be preferable to those that may be endured by others. We insult ourselves, when we foolishly balance between tolerable vices and positive good; between unnatural systems, and novel, untried, but just maxims. The human mind is progressive, so is the social mind. That the one therefore should remain stationary, amid the rapid course of the other towards perfection, is a prejudice as unnatural as it is injurious to the happiness of man. The governments of Europe present no delectable symmetry to the contemplation of the philosopher, no enjoyment to the satisfaction of the citizen. A vast, deformed and cheerless structure, the frightful abortion of haste and usurpation, presents to the eye of the beholder no systematic arrangement, no harmonious organization of society. Chance, haste, faction, tyranny, rebellion, massacre,



and the hot, inclement action of human passions, have begotten them. Utility never has been the end of their institution, but partial interest has been its fruit. Such abominable and absurd forms, such jarring and dissonant principles, which chance has scattered over the earth, cry aloud for something more natural, more pure, and more calculated to promote the happiness of mankind. Experience must regulate the mechanism of government, by which I mean not a narrow and confined, but a liberal and enlightened experience, which, hearing without passion or prejudice, the testimony of ages and nations, collects from it general principles, to further the progress of civilization. It is in history that we are to dive for those rich materials of legislative experiment, which are to ameliorate the social order, and repair those breaches which injustice has long since made. But if this experience be found inadequate to the purpose of alleviating human miseries; if it afford nothing but the melancholy prospect of outrageous despotism; of excessive vices on the part of the governing, and debasement and vassallage on that of the governed; if it ascribe the commotions of suffering countries to the designs of factions, and not to principles; if it show, that in consequence of national ignorance, after the first ebullitions of revolt, they have sat down in a torpid calm, and borne with usurpations still heavier than those by which they were roused to arms—it must be granted that this experience is important; because it teaches the suffering nations of the present day, in what manner to prepare their combustible ingredients, and humanists in what manner to enkindle them, so as to produce, with effect, that grand political explosion, which, at the same time that it buries despotism, already convulsive and agonising, in ruins, may raise up the people to the dignity and sublime grandeur of freedom.

“To effect this just and useful purpose, *revolution of sentiment* must precede revolution of government and manners. The popular energies must be excited, that the popular voice may be felt and heard. The people must grow wise, in order that the people may rule. It is said we preach anarchy, but what is anarchy but the establishment of confusion on the wreck of popular opinion? It is said we are levellers; but those are levellers who would wish to reduce man to the condition of the brute, guided by passion, and uninfluenced by reason. Those are levellers whose hands are dipped in the public spoils; who assert impunity for crimes, and inviolability of persons; who would make humanity take a retrograde motion; who would palsy the arm of justice, and defeat the end of equal laws. We have ever disclaimed the foolish idea of *levelling property*; because our own property, the fruit of our labour, or of our talents, might, by the example, be exposed to the invasion of the first intruder. It were well, if those who confound justice with crimes, would consider

that the poor man's property, little as it is, is as precious to him, as is the wealthy stock of the rich man. It were well, if feeling the force of this principle, the aristocracy would unite with us in the cause in which we are embarked. Property, they say, is sacred. Is not then the property of the poor man as sacred as that of the rich; and ought it to be filched or forced from him without his consent, any more than that of the rich man? Can those who do not respect the property of others, expect others to respect their property? We wish to exalt, not to level. We wish to better the condition of the wretched; to equalize men under the influence of law; but to give to merit, industry, talents, patrimony, virtue, their proper weight and correspondent dignity in the social order. Are we then ungovernable, because we reject mis-government? Are we ungrateful, because we defend our liberty and property against those who ought to respect them? Are we rebels in maintaining our violated laws against those who are open rebels to laws, and who set themselves above those laws which they ought to have venerated? I know, that in all ages of the world, people who would not be oppressed have been reckoned ungovernable by men who are, or who would be oppressors. I know that the enemies of oppression have always been stigmatized as enemies of government. I know that it is seditious to blame the excesses of power, and insolent to mention the insolence of those who abuse power. I know that it is seditious to distinguish between public right and public wrong, between government and tyranny. Nor is it enough to acknowledge all *good* government to be irresistible; but the *worst*, and the abuse of the *best*, must be irresistible also. I know that to complain of tyranny is *faction*, and to throw it off *rebellion*; but they who oppress are the greatest *Rebels*, and for the oppressed to turn upon them, is but to *resist* Rebellion—it is but to do a just and natural action. Whoever violates the laws of reason, equity, and nature, whatever station or name he may bear, is a *Rebel*, subject to laws against tyrants and rebellion. Tyrants, therefore, and oppressors, are the highest and most consummate rebels in the world—capital traitors to God and Man, and punishable by all the laws of God and Man. Amid all the absurdities and chimeras of paganism, it was never believed that tyranny was warranted by heaven. It was never believed that the bloody Caligula was the viceroy of God, and that the worst of men had a commission from heaven to oppress the human race. It was never believed that murder, rapine, and misrule, were government; and that lawless and bloody crowned robbers, were governors divinely appointed. It was never believed that society had no remedy against devouring lust and the raging sword, which were destroying all the ends of society, and even society itself. Such indignities to

God and man were never broached by pagans; they never propagated doctrines which would have turned men into idiots, destitute of reflection and feeling; into beasts of burthen and beasts of sacrifice; turned heaven into hell; human society into a chaos of blood and carcases; and the earth into a place of torments. It never entered into the heart of a Greek or a Roman, nor into any heart that felt the sentiments of virtue and humanity, that it was unlawful to defend nature; a crime to ward off murder, barbarity, and desolation; and an impiety to do the most godlike action which can be done on this side heaven, that of disarming tyrants, and of saving our country from perishing. Government is doubtless a sacred thing, and justly claims our reverence and duty; but when government is general oppression; when havoc, spoil, and persecution prevail, to the destruction of all who do well; when law and justice are banished, and military despotism triumphs; when property is attacked and seized without the consent of its owner, and lives are wantonly destroyed!—is this government too? If it be, tell me what is not government? I do not think, in an age like this, that the people of this, or any country, can ever be so sunk or deadened by oppression, but that repeated provocation will raise a spirit amongst them capable of accomplishing the greatest projects. Even the most professed and degraded slaves, the people of Turkey, often rouse themselves, and casting their proud rider to the earth, trample him to death. A little spark often kindles a great flame, and a flame soon spreads to a conflagration. An ignorant nation roused to assert its liberties, will be mad and furious; for when men are used like beasts, they will act like beasts! But when an enlightened people, knowing their rights, are reduced to a state of degradation, they will know that their condition cannot be worse, but, by their own efforts, their condition must be better. An ignorant people, incited by repeated injury to shake off the load of injustice, will risk unseen evils and calamities—will risk even a civil war to be revenged on their oppressors. Such was the temper of the Romans upon the revolt of Sacrovir—they even eulged in it, and in hatred to Tiberius, wished success to the public enemy. Such were the injured people of Spain, who, when the Romans came, joyfully received them as their deliverers from the tyrannous yoke of Carthage. But an enlightened people will never sully the victories of patriotism by such irregular conduct. Revenge will never be adopted as a principle. Peace will actuate their demeanour, and they will glory in awaiting the slow process of universal information, as a prelude to universal emancipation, rather than tarnish the career of liberty, by involving their country in scenes of terror, waste and depredation. Oppressed nature will, at a proper season, depart from passive principle; and should an

attempt be made to wrest what remains of liberty from us, I trust all men will concur to vindicate their violated rights—for, if the attempt be suffered once, it will be often repeated. A few repetitions create a habit, and habit will claim prescription and right. For governors to be omnipotent, the race of man must be extinct; and no argument for destroying anarchy can be used, but what is full as strong for the overthrow of tyranny. It is difficult to restore public affairs, when once disconcerted, to their former steady principle—numbers will engage in the corruption, and will try every art and power to support it, and they will continue to do so, until nature, which is always uppermost in man, signs their tragical doom!

“CITIZENS;—I repeat my former assertion. Go on as you hitherto have done, in the culture of reason. Disseminate throughout the whole of your country, that knowledge which is so necessary to man's happiness, and which you have yourselves acquired. Teach your children and your countrymen the sacred lessons of virtue, which are the foundations of all human polity. Teach them to respect themselves, and to love their country. Teach them to do unto all men as they would that they should do unto them, and their love shall not be confined to their country, but shall extend to the whole human race. When such a revolution of sentiment shall have dispersed the mists of prejudice; when by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the sun of reason shall shine in its fullest meridian over us; then the commanding voice of the whole people shall recommend the five hundred and fifty-eight gentlemen in St. Stephen's Chapel, to go about their business.”

The following Resolutions were next read, and unanimously approved of, amidst the loudest applauses.

“4. That in every country where the people have no share in their government, *taxation is tyranny*.

“5. That therefore a government is tyrannical or free, in proportion as the people are equally, or unequally, represented.

“6. Convinced of this truth, it is the opinion of this meeting, that the people ought to demand as a *right*, and not petition as a *factum*, for universal representation.

“7. That therefore we will petition the House of Commons no more on this subject.”

[Read from “An Address to the British Nation,” from the first page (page 27 of the pamphlet) and from page 31 to 36.]

“*An Address to the British Nation.*”

“Friends and Countrymen;—We have heard this day decided, with the exception of only one dissenting voice, that the House of Commons shall never again be *petitioned* by us, in the subject of parliamentary reform.

“We owe to the nation, to posterity, even to foreign countries, and to the government,



itself under which we live, an exposition of our motives. To the nation we owe this duty, because we are of opinion, that THE WILL OF THE MAJORITY OF THE PEOPLE, SHOULD BE, AT ALL TIMES, THE SUPREME LAW; and that if the *few* dissent from the opinion of the *many*, however obligatory the will of the majority may be to them as a rule of action, yet opinion is always free and sacred, the right of man to enjoy, and the conscientious duty of man to diffuse. Under the full conviction of this principle, we feel ourselves, *at present*, the minority, because we are the first to agitate the question, and to repeat the monstrous idea of petitioning when our petitions are not received by the House of Commons. But, we are numerous—we are many thousands; and as nothing opens the eyes of men so much as their interests, we demand, fellow-citizens, nay, we are entitled to it from our numbers, that you lend an attentive ear to the truths we are about to utter, and to the reclamations we are about to make in favour of oppressed humanity."

"Our petition was received with the utmost indignation by the House of Commons; which was no more than we expected. We knew that the homely truths we uttered, would be very unwelcome guests in that house. We never expected that a body in which there were so many placemen and pensioners, would listen to the palpable facts stated in that petition; the object of which was to root out injustice, and to curb licentiousness and corruption. Nevertheless, as we were called upon by our countrymen to unite with them, we thought ourselves bound to comply with their wishes. And, although our petition was disdainfully rejected, because not couched in language sufficiently polite and respectful for

rious treatment rather gives *warning* than strikes *terror*. The abuse of representation can never come in the place of a rule, for no legal power can be derived from injury or injustice. On this ground alone, therefore, we are justified in preserving a sullen silence in respect to the House of Commons. For, if grievances, abuses, complaints, and truth, are to be discarded from that House, because not dressed in a *gentleman-like* language, how are we, plain mechanics, ever to obtain redress, who are not *gentlemen*, and who are, consequently, ignorant of those polite and courtly expressions which are necessary to gain a hearing in that House. We are ignorant of the art of displaying truth by halves, and, as we love plain dealing ourselves, we detest hypocrisy in others, and pity those who would wish us to follow their example. We said to the House of Commons, we are wronged and aggrieved—will you right us, and redress our grievances, or will you not? If you will, we shall be satisfied; if you will not, we shall seek redress some other way. This is the sole question with us, and we put it, as we thought, in a most becoming style to the House of Commons. But, our *petition* being scouted, we shall trouble them no more with our coarse and unmannerly language. It will be our duty to proceed, as we have uniformly done hitherto, in enlightening the public mind; and, when a complete revolution of sentiment shall take place (as will shortly be the case) in our country, we shall open our mouths, in that key we think most agreeable to ourselves; and our voice, together with that of our disfranchised countrymen, will resemble, perhaps, the thunderings from Mount Sinai!"

"Yes, countrymen, we demand equality

sire to see the sanctuary of virtue erected, and the standard of liberty planted in our land, around which the people may rally as to an holy of holies. In short, we desire to see the altar of equality blazing in Britain, whose streams of fire, whilst they shall shock, convulse, and tear down the rotten pillars of prejudices; whilst they shall consume tyrants, and terrify public delinquents, shall pierce into the hearts of the whole people, and confirm the wide empire of morals on the wreck of superstition and vice. Such is our equality, and such is the equality which we proudly gratulate our countrymen, will shortly be established in Britain, and which we invite you, PEOPLE OF SCOTLAND, to partake of.—The banks of the Forth, the fields of Bannockburn and Culloden, and that tribunal of Edinburgh, which has disgraced your capital, shall yet bear testimony to the cause for which FLETCHER wrote, and WALLACE bled."

[Two envelopes, in each of which was inclosed a copy of the proceedings of the public meeting, held at Sheffield, on the 7th of April, 1794, were read; one addressed "To Mr. Vaughan, esq. counsellor at law," the other "To the honourable Charles Fox."]

*William Broomhead* cross-examined by Mr. *Gibbs*.

You said, about the time these pikes were talked about, there had been a mischievous hand-bill circulated, for the purpose, as you suppose, of exciting the people against the society; can you tell me what was the general substance of it?—I had one in my hand, but cannot speak to every thing it contained.

But what was the general substance of it?—It was a call to the people to arm against foreign and internal enemies, and the reply which was made to it was couched in the same language.

That was the first thing that was published; at what time was it published? before or after this meeting that you speak of?—I do not recollect the exact time, but I read them both, and should have been happy if I had had them both here.

But you say the object of it was to provoke the people?—It was given out, by various people in the town of Sheffield, we can never do any thing against these people, against the society, till we ourselves cause a riot.

These people meant the society?—Yes; and I saw myself several persons ride up and down, round the market place, full gallop, to ride over people, when, at the same time, it was only boys.

The cry was, they could never do any thing with you; unless they caused a riot against you, they could make nothing of it?—It has been said so, but I cannot recollect who said it; but this wicked hand-bill appearing, without the sanction of the law, or the magistrate, —I read it; and, if I had been aware of this, I would have brought it;—this was the cause of any thing being spoken concerning arms.

Among all the conversation you have ever heard upon the subject of these pikes, were they intended for the purpose of making an attack upon any power in this country, or only for defending yourselves, if you should be attacked?—I never understood them in any other light, and what was said about them was in answer to this wicked hand-bill. There was neither Mr. Wilkinson's name, nor Mr. Althorp's, nor any gentleman's name in the town to it.

Whether you ever collected, from those who talked of pikes, or ever produced any, that they meant to make any attack upon any of the powers in this country, or only to defend themselves, if they were illegally attacked?—This was the very truth; to oppose illegal force, and direct violation of the law of the land, made upon us, as was done at Manchester and at Birmingham.

Then they were meant only to be used on the defensive?—Mr. Gale had this hand-bill in his hand, when he first mentioned the pikes at this meeting, or in his pocket; and there were several resolves printed in his paper the week following, and direct answers thereto, mentioning something upon the matter. I would have brought them both with me, if I had been apprehensive of this.

Had any of the people in this society to which you belonged, any idea of making any attack upon either the King, or the House of Lords? had they any idea of altering the government in that respect?—I think they ought to be sent to Bedlam, if they had.

Had you, as one of that society, any such intention yourself?—Just the same as flying to the sun.

But to speak plain; by that you mean, I suppose, that you never had any such thought in your mind?—No; never.

What was it that you wished to produce by these meetings of yours?—To enlighten the people; to show the people the reason, the ground of all their complaints and sufferings; when a man works hard for thirteen or fourteen hours of the day, the week through, and is not able to maintain his family; that is what I understood of it; to show the people the ground of this; why they were not able.

Was not the object of your meeting a parliamentary reform?—Yes, it was; and as such we corresponded with the society of the Friends of the People, as well as the Constitutional Society.

Who were the members of the Friends of the People?—There were several communications, I know, received from that society.

Mr. Stuart, I believe was the secretary?—Yes.

Should you have continued a member of this society, if you had thought that they had any intent of shaking either the King, or the Lords, or of deposing the King from his throne?—No.

You would not?—No.

Should you not have abhorred such an idea?—Yes, yes.



Have you any reason, from any thing that ever passed in the society, to believe there was a single member of it who entertained such a notion?—No; and I do not believe there is such a wicked man amongst them.

The object of your meeting, you say, was to state to the people the grounds of certain evils which you thought to exist; and wished to bring about a parliamentary reform—Was that a parliamentary reform in the House of Commons?—In the House of Commons.

You meant that the king and the lords should remain as they were; but that there should be a reform in the House of Commons?—Yes.

Did you believe, and was that the ground upon which you acted, that by producing such reform as you wished in the House of Commons, that those evils would be remedied?—That the King, the Lords, and Commons, might themselves, with the concurrence of the nation, remedy these evils. As to reforming, as to the expenditure, and other matters, we had not the vanity to think of such a thing.

Then do I understand you right, when I suppose this to have been your principle—that you thought the King, and the Lords, with the House of Commons, so reformed, would redress all your grievances?—Yes.

Was it your object to attain this end peaceably?—There is no one doubts it in Sheffield, that will speak honestly.

I speak of your own particular object—Your object was to attain it peaceably?—It was.

Have you any reason to think it was the object of any other man in the society, to use any but peaceable means to obtain it?—Not to my knowledge—what persons might do, had any thing happened, as a convention

tation of the people of England in the House of Commons?—I always understood it so for my part.

*William Broomhead, re-examined by Mr. Garrow.*

I could wish to ascertain whether I have taken you correctly; you meant, and as far as you understand, your society meant to produce a reform of the representation of the people in the Commons House of parliament by peaceable means?—Yes.

But you apprehended, that when you should depute your delegates to a convention, that you trusted to that convention, and that what might then be done you could not answer for, not being able to answer for the wickedness of individuals—Did I take you correctly?—Yes.

For the purpose of obtaining this desirable object of a parliamentary reform, you say you corresponded not only with the Constitutional Society, but with other societies; and among them, you have named a society called, a society of the Friends of the People?—Yes.

Do you know the answer which that society returned to your's as early as the 26th of May?—I do not now recollect the answer.

Perhaps I may assist your memory, by reminding you of the reply of your secretary to that society?—Perhaps it might not be me.

Do you know a person of the name of Ashton?—Yes.

Did he ever act as secretary to your society?—Yes.

You have said that your object, and, as far as you know, the object of your society, was, to obtain a reform by peaceable means, and by enlightening the public—I ask you, if you do not know, that upon the society of the Friends of the People returning some answer to your

cated to your associated society, the Constitutional Society, that this society, the Friends of the People, whatever they professed to do, were not fit persons for your having any thing more to do with them?—I do not know that such a letter was communicated, nor such a letter received.

I do not ask you, whether you know that such a letter was received, or whether you know that such a letter was sent; but I ask you, if the result of your deliberation was not, that they were unfit for your society, that the Constitutional Society might be so informed?—Nay, I am not certain that it was the result of the determination of that meeting; I rather think that it was determined afterwards, if it was determined at all.

Do you recollect whether Mr. Yorke took any part in that discussion?—No, he was not there then.

Who were the parties?—Several persons spoke, among whom I was one.

Have you read the declarations published by that society, called the Friends of the People: doubtless you have, for your information; or if you have not read them yourself, have they been read in your society?—I might have read them.—I will not say—I believe I might.

Do you not know that in language, to which to be sure I can do no justice, they declared their firm intention, by all constitutional and proper means, to produce that very thing which you state to have been your object, a reform in the representation of the Commons House of parliament?—Great numbers of people did not believe them—they did not believe them to be honest.

However, they had made those professions?—Yes; there was something of that.

But that you did not quite believe. Was this, think you, as early as the 26th of May, 1792, that you disclaimed these Friends of the People?—It may, I do not recollect the time exactly; I think it might be about that time.

And that was long before Mr. Yorke came among you upon his last mission?—It was.

And of course long before all these discussions. Be so good as to tell me a little more distinctly what this mischievous hand-bill was that excited you to arms—I believe it was calling upon people to associate, and to arm against foreign invaders and domestic enemies?—Yes; but not with any magistrate's name to it.

But the object was calling upon the people of Sheffield to arm against foreign invaders and domestic enemies?—Yes; and that meeting, when arms were spoken of, it was determined, in several resolutions, to get those arms for the same purpose, in reply to that.

Let us see that we quite understand one another. Did you adopt that hand-bill, and arm in consequence of it, or were you alarmed at its being prodigiously unconstitutional, and arm against it?—I never did.

But the society?—Some few might.

Was that to arm against the invasion of foreign enemies, or protect yourselves against attack from domestic enemies?—It was couched in words, which were taken and put into resolves, and advertised in Gale's paper the next week.

Your society, after this hand-bill, calling upon people to arm against foreign invaders and domestic enemies, took that hand-bill as their text, commenting upon it, adopting their resolution, and arming themselves?—Yes, against foreign invaders and domestic enemies.

Your reason for doing this was, that you were afraid of illegal force being used against you, as had been done at Manchester and at Birmingham. Did you apply to any magistrate for protection?—It was needless till the injury was done.

Give me the facts first, and the comment afterwards. Did you apply to any magistrate informing him, that you, who were peaceable persons, had been threatened with attacks, and wanted the protection of the civil power?—No; why should we till we were attacked?

I am not capable of arguing with you; I say that unaffectedly. Did you apply to any magistrate, informing him, that any peaceable persons had been threatened with attacks, and wanted the protection of the civil power?—No, not to my knowledge.

But, on the contrary, you published resolutions for arming?—To that purpose, couched in their words.

You had no intention at all of altering the government, but of applying to the House of Commons to redress the grievances, under which the people suffered?—I always understood it in that light.

How early was it that you came to resolutions in your society to petition the House of Commons no more; for that these 558 persons were too fine gentlemen for you; and you were not used to the courtly language that would suit their ears?—These were drawn up by Gale and Yorke, and therefore they were winked at out of complaisance to them.

And you, who were too rough for the House of Commons, were courtly enough to pass these resolutions which were proposed by Yorke and Gale, two of the active members of the society?—You say the society winked at them?—I suppose they did, knowing them to be of superior knowledge.

However, pass them you did?—Yes, believing them to be of superior knowledge to ourselves.

The next step was to form a convention, and by the delegates to procure a full, fair, and equal representation by means of the convention?—There was then at that very time a petition to the king.

About the slave-trade?—Yes, and about a reform too.

Whether this was a part of these resolutions which passed upon the subject of arming?—“That the landing of Hessian troops in



this country, a ferocious and unprincipled horde of butchers, without consent of parliament, has a suspicious and alarming appearance, is contrary to the spirit of our constitution, and deserving of the marked indignation of every Englishman"—Was that one of the resolutions that you passed at the time of adopting the resolution about the hand-bill?—That was passed when the lecture was read.

Was that long after the hand-bill?—No; long before.

"That it is high time to be upon our guard, since these armed monsters may in a moment be let loose upon us, and particularly as the erection of barracks throughout the kingdom may only have been an introductory measure to the filling them with foreign mercenaries"—Was that one of the resolutions you passed long before the hand-bill?—Some time before; I do not know exactly how long.

Be so good as to tell me, as you were to arm at Sheffield, very properly as I agree with you, for the sake of preventing attacks upon you, whether you communicated to any other parts of the kingdom the sort of instruments with which you meant to arm yourselves, and your plan of arming?—I never did; and I do not know whether any body else did or no.

Do you mean to say, that you do not now know that your society communicated plans for arming, the mode of procuring the instruments, and the models of the weapons?—I never knew a syllable of that till I was informed of it before the privy council.

Then if Davison, in the name of the society, sent any such letter to London, you were not in that secret?—I was not.

You know Davison very well?—Yes, I knew him some little time.

He was a member of the society?—Yes, I suppose he was.

"FAST DAY, as observed at SHEFFIELD.

"A SERIOUS LECTURE, delivered at SHEFFIELD, Feb. 28th, 1794, being the Day appointed for a GENERAL FAST: to which are added a HYMN, and RESOLUTIONS.

[From the beginning to page 3.]

"FAST DAY.

"A Royal Proclamation having been issued, commanding February the 28th, 1794, to be observed as a General Fast, the Friends of PEACE and REFORM, in Sheffield, determined to honour the Day in the most distinguished Manner. Accordingly the THOUSANDS of that Town assembled upon a spacious plain near West-street, Backfields, where the Meeting was opened with Prayer; after which a SERIOUS LECTURE, suitable to the Occasion, was read with great Energy to the immense Concourse of People, who listened in the most attentive Silence. A HYMN, prepared for this Solemnity, was then sung in full Chorus by the whole Assembly. Immediately after, WILLIAM CAMAGE being called to the Chair, the following Resolutions were unanimously passed, and the Meeting dissolved in that orderly and peaceable Manner, which so eminently distinguishes the patriotic Inhabitants of Sheffield.

"A SERIOUS LECTURE.

"In every age of the world, the cause of truth has always met with its opposers, whenever it chanced to clash with the interests of a venal tribe of Kings, Courtiers, Priests, and their accomplices. By reading over the 18th chapter of 1 Kings, we find that this was the case; yet the Almighty was pleased by an act of Omnipotent Power, to overturn the malice and wicked intentions of that infamous tyrant

tained their end—for 'the ears of the Lord are 'not open to the cries of the foolish, but unto 'the wise.'

"It is in this point of light, I view, with concern, a combination of Kings apparently leagued against the cause of Freedom; a combination which I believe to be odious in the sight of Heaven, although for its support we are commanded a second time from the Throne, not of God, to fast and pray for the success of our arms over our brethren, who are struggling for every thing that is dear to Man, and which is the will of God he should be possessed of—*LIBERTY, civil, political, and religious.* Life without them is a burden."

[Page 11, Resolutions, &c.]

#### "RESOLUTIONS.

##### "RESOLVED UNANIMOUSLY,

"1. That War, the wretched artifice of Courts, is a System of Rapine and Blood, unworthy of rational beings, and utterly repugnant to the mild and benevolent principles of the Christian Religion.

"2. That if the present war, be a war of Combined Kings against the people of France, to overthrow that Liberty which they are struggling to establish, it is, in our opinion, a war of the most diabolical kind.

"3. That when public Fasts and Humiliations are ordered with the same breath, which commands the shedding of oceans of Human Blood—however they may answer the purposes of State Policy—they are solemn prostitutions of Religion.

"4. That the landing of Hessian troops in this country (a ferocious and unprincipled horde of Butchers) without consent of Parliament, has a suspicious and alarming appearance, is contrary to the spirit of our Constitution, and deserving of the marked indignation of every Englishman.

"5. That it is high time to be upon our Guard, since these armed monsters may in a moment be let loose upon us; particularly, as the erection of barracks throughout the kingdom may only have been an introductory measure to the filling them with Foreign Mercenaries.

"6. That the high and free-born minds of Britons, revolt at the idea of such a Slavish System, and cannot be so far broken, as to kiss the hand which would chain them to its will.

"7. That Peace and Liberty are the offspring of Heaven, and that Life without them is a burden.

"8. That the Thanks of this Meeting are due to Earl Stanhope, for his Motion and spirited Speech for acknowledging the French Republic, and restoring Peace to our distressed country; for his Motions and able Speech in behalf of the persecuted and suffering patriots, Messrs. Muir, Palmer, Skirving, and Margarot, in which he nobly stood alone;

and also for the whole of his truly animated and benevolent exertions in support of the injured *Rights of the People.*

"9. The Thanks of this Meeting are also due to Mr. Sheridan, for his nervous and eloquent Speeches in the cause of injured Patriotism, and in support of the Constitution; and also to every other Member of Parliament who has nobly stood forward at this important crisis, in support of the Constitutional Liberties of Englishmen.

"10. That if any thing had been necessary to have convinced us of the total inefficacy of argument against a Ministerial Majority, the decisions which have lately taken place in Parliament, would have fully confirmed our opinion.

"11. That therefore the People have no remedy for their grievances, but a REFORM IN PARLIAMENT—a measure which we determine never to relinquish, though we follow our Brethren in the same Glorious Cause to *Botany Bay.*

"W. CAMAGE, Chairman."

#### "LONDON CORRESPONDING SOCIETY.

##### "UNITED FOR A REFORM IN PARLIAMENT.

"Committee Room, March 20, 1794.

"RESOLVED, That the Society approve the sentiments contained in the Serious Lecture delivered to the CONSTITUTIONAL SOCIETY at SHEFFIELD, on the 28th of last month—and earnestly recommend it to the perusal of all who think CIVIL and RELIGIOUS LIBERTY a Blessing.

"Resolved, That the Commanding a *General Fast*, for the purpose of imploring the Divine Father of *Mercy and Peace* to support and prosper us in the *horrid act* of deliberately *destroying* our fellow-creatures, is repugnant to the true spirit and principles of Christianity, where we are commanded to *pray* for our enemies, &c. And further considering, that a great part of the PEOPLE are unacquainted with the nature of the *present WAR*, either as to its *justice or necessity* (every endeavour being used to keep them ignorant of the *real* principles and design for which it was commenced) to *approach* and to *supplinate* the OMNISCIENT POWER, under such circumstances, and for such a purpose, must indeed be dreadful, since knowledge and conviction are wanting.—The *worse* than hypocritical hearts of those who are the *Authors* of such a measure—although they at present impose upon the ignorant and credulous, by such detestable, such pretended show of devotion—cannot escape the chastisement of that *Power*, whom they thus insult, and from whose judgment there is no appeal.

"T. HARDY, secretu



**"SOCIETY FOR CONSTITUTIONAL INFORMATION."**

"March 21st, 1794.

"RESOLVED, That the Secretary of this Society be directed to write to the FRIENDS OF PEACE AND REFORM, AT SHIEFFIELD; and to assure *them*, that this Society views with pleasure, their steady exertions to obtain a fair Representation of the PEOPLE of Great-Britain in Parliament; and the proper methods which they have taken to employ *usefully* those days which may be appointed for Public Fasts.

"D. ADAMS, secretary."

Henry Alexander sworn.—Examined by Mr. Wood.

Were you a member of the London Corresponding Society?—Yes.

How long is it since you first became a member?—It was the latter end of the year 1793—I do not know the week.

What division were you?—Division twenty-nine.

Did you meet at Robinson's Coffee-house, Shire-lane?—Yes.

How many might your division consist of?—I think I was the twenty-fifth member when I went in.

Did you know Mr. Yorke?—Yes, by sight. Was he a member of the Corresponding Society?—He became a member while I was there.

Do you remember his being with you the latter end of the year 1793, at Robinson's Coffee-house?—Yes.

What number of people might there be assembled at that time?—I suppose between 60 and 100—the room was quite full.

Did Mr. Yorke tell you whether he was going to leave you, or not?—On the last night that he was at the society, he took leave of them by a long speech—he said he was going to Bel-gi-um—Bel-gi-na.

Did he say for what purpose he was going there?—Yes; that he was going to head the French army, and should be back by Christmas; that he had received a letter from a friend of his in Bel-gi-um, where they were going; that they would be ripe by Christmas—he was going at the head of them.

Ripe for what?—For a revolution.

Did he say whether he meant to return into England again?—He did.

What more did he say?—He said he was in hopes he should come at the head of them to England.

One of the Jury.—Where was he to come to?—To London.

You say he made a long speech upon his taking leave?—Yes.

What did he say to you in that speech—the substance of it?—The substance of it was as I informed you before—that he had received a letter to go over; that he had an offer of being a member of the National

Convention in France; and that he was in hopes he should have the pleasure of coming here either by Christmas, or the beginning of the year, at the head of them; and that he should see them all ready to join him; and that he was in hopes that Mr. Pitt, with the different ministers he mentioned, and the king's head, would be upon Temple-bar.

Lord Chief Justice Eyre.—That who would join them?—That the society would.

Lord Chief Justice Eyre.—Whose heads upon Temple-bar?—Mr. Pitt's he mentioned, the minister's, and the king's.

Mr. Wood.—Recollect as much more of the speech as you can.

One of the Jury.—Did you mention the time when this meeting took place?—It was the 5th of November, 1793.

Mr. Wood.—Did he say any thing to you about the king and queen of France?—Yes, he did—he made some observations upon them, but I cannot recollect the words now.

But the substance of it?—The substance of it was, that it was what they had deserved—that they had met with their desert.

Did he say any thing about war?—I do not recollect that he did.

Did he say any thing about the Sans Culottes?—He did make mention of the Sans Culottes; that they were a set of brave fellows—He said a deal about them, that they were a set of brave fellows.

Do not you recollect what he said besides?—I do not.

Did he say any thing to you about arms?—He did.

What did he say about arms?—He said that he was in hopes when he came, he should find them all ready to join him, and that when the point came that he hoped they would not be afraid, and spring or shrink from what they pretended to be; he said, it was impossible to do any thing without some bloodshed.

One of the Jury.—Whom did you mean by the *they*?—The society; he was speaking to the society.

Mr. Wood.—What did he say about bloodshed?—He said, that there would be no good done without some bloodshed.

Did he say any thing to you about Sheffield, or the people at Sheffield?—He said, that there was a set of brave men there.

Did he tell you in what they were brave?—I cannot say that he did.

What more did he say about the Sheffield men?—I do not recollect.

Where was the blood to be shed?—He did not say.

Did he say any thing about bread and cheese, do you recollect?—No; there was such a thing mentioned in the society one night before; there was a person came in from Sheffield, and said that they had pikes made at Sheffield at sixpence a piece; there was another made answer in the room, who he was I did not know, nor him

from Sheffield; he said it would be good for them to have the same, it would only be living upon bread and cheese for one day; Mr. Yorke was not there then.

Was it the same night?—No, it might be two or three nights before.

How was Mr. Yorke's speech received among you?—Quite unanimous; when he got up we all got up and shook hands with him; all rose and shook hands with him when he got up and left the room.

Lord Chief Justice *Eyre*.—Did you see Mr. Yorke any more?—I saw him no more after that.

Mr. Wood.—Do you know where he went?—I did not.

Did you continue in the society after that night, or leave it?—I went after that to Mr. Dundas's office, and likewise to my lord mayor, who is sitting there:—No, it was sir James Sanderson.

Have you seen any other bills like that [showing one to the witness]?—No.

Did you see that before?—No.

Why did you go to my lord mayor?—Because I thought it was proper that government should be let into the light of what they were proceeding upon; immediately as I found out what they were I gave information.

What had you apprehended them to be at the first?—At the first I was asked to go to the society:—I did not know what they were; as soon as I got in, Smith was delegate; the person with me was a friend of Smith's; they asked me to be made a member:—I agreed; I did not know what it was, I gave thirteen-pence, and they gave me a ticket.

Where is it?—I gave it to Mr. Dundas's secretary.

How long was it before that?—I think I was seven times there.

*Henry Alexander*.—Cross-examined by Mr. *Erskine*.

What are you?—A linen-draper.

Where do you live?—At the Rose, in the Fleet-market; I reside there at present.

At what time of the year was it that you first went with your friend to this society?—Towards the latter end of the year 1793.

Did you go for the purpose of being a member?—I did not, though I became one.

For what purpose did you go?—I went for the purpose of going to a club; my acquaintance asked me if I would go to a society with him, and I went.

Who is this friend?—His name is Whitehorn.

You went there perhaps from curiosity?—Nothing else.

Was Mr. Yorke there that night?—He was not.

Who might be there that first night?—Some that were there as delegates; Ashley was there, and Baxter was there; these are all I know by name, except Whitehorn.

VOL. XXIV.

What day of the month was it?—I cannot say.

What day of the week was it?—Of a Tuesday.

In what month?—I cannot say the month. Try?—I cannot.

Did you hear any thing that offended you that night?—No, nothing at all.

How long did they sit?—Till twelve:—till near one o'clock.

What did they converse about?—They had papers.

Were they read?—I think Mr. Smith had some pamphlet that night to be read; he generally brought papers of some kind.

Then you heard it read?—Yes; there was something read that night.

Did you become a member that night?—Yes.

After you had heard that read?—There was nothing read till after I was admitted a member.

Then you were suddenly converted into a member; you went there out of mere curiosity, with no design of becoming a member, and at once, when Smith started up, you became a member?—He asked Whitehorn.

And Whitehorn went from curiosity?—No, he belonged to them before, to a society in Holborn, which I did not know till afterwards.

When did you go next time?—I missed two or three nights.

You say you attended seven meetings?—I think I attended seven times.

Was Yorke there the second time?—No.

Who was there the second time?—I do not recollect—Smith was there.

Did not you become acquainted with the people who were there, by conversing with them?—No; I conversed with Ashley, I spoke to him two or three times.

You became a member, because you wished to propagate their opinions and doctrines?—Not at all.

Then in plain English you went there as a spy; did you not?—When I went I did not know what it was.

When you became a member, did not you become a member for the purpose of informing?—After I knew what they were I did.

Had you had any opinions upon the subject of a reform? did you wish a reform of parliament?—I did not.

Then why did you become a member if you did not wish for a reform in parliament, but for the purpose of being a spy?—When I became a member I did not know what they were.

Did you not know they were a society for parliamentary reform?—Yes.

You say you did not wish a parliamentary reform?—I scarce knew what they meant by it when they read it over.

Did you wish a parliamentary reform when you became a member, when you heard that

2 T



paper read the first night? Now mind; did you wish a parliamentary reform, or any alteration in the House of Commons or in the government any way?—Upon your oath (look across to the jury)—Did you, upon your oath when you became a member of that society wish and desire to have any alteration in any part of the government?—You need not look at me, I shall hear it well enough; why do you hesitate—come, cough it up, answer me that upon your oath; are you acquainted with Mr. Dunn,\* of Manchester?—No.

I should have thought you were?

Lord Chief Justice *Eyre*.—Why do not you answer the question?—I do not understand you.

Mr. *Erskine*.—I am sorry for it; I believe you are the only one in court that does not: I will put it again to you, because I wish to be civil to you. Did you wish a parliamentary reform, or any alteration in the government, when you became a member of that society?—I never wished any thing of the kind.

Then upon your oath, why did you become a member of a society for parliamentary reform, if you wished nothing of the kind?—The reason of my becoming a member, was, when I went in, as I said before, Smith asked Whitehorse if I would not be made a member; he said no, I had better not to-night; but Smith urged him, and said make him a member; then one got up and read a paper, I heard him read something, but I did not understand what he read till after I got the paper from him; they gave me afterwards what they read over, and the ticket.

Then you read it?—I do not know I read it that night,

Did you read it before you went there again?—Yes I did.

Then since you took the paper read in the society home with you, and read it in the interval between the first time and the second time of your going there, you must approve of it before you went a second time?—I did not.

You thought there was danger in it?—I read it to two or three of my friends; they were of the same opinion as myself.

What is become of the paper?—I left it at Mr. Dundas's office.

Then you went of course, the second time, for the purpose of becoming an informer?—I did; I went to see what they were upon.

Between the first and second time you went to that society, or before you went to it at all, had you been desired by any body to go for that purpose?—I had not.

Then you went of your own mere motion, because you wished to be serviceable to the public by going there?—The second time I did.

\* See his examinations on the trial of Walker of Manchester, *ante*, Vol. 23, pp. 1088 *et seq.* 1133 *et seq.* and the account of his subsequent trial and conviction for perjury, p. 1166.

When you were there you pretended to be a friend, no doubt, and to approve of what was going on?—I did.

Whereas in fact you were a spy?—So I proved at last.

You went the second time in order to be one?—I went in order to see what their plan was,—what the real grounds of it were.

Did you take down any minutes on paper?—They would not suffer it.

You went again a third time?—I did.

Was it then that Yorke talked of the pikes?—No.

They met weekly, did not they?—Every week.

That would extend to near two months; then of course you can tell us what month it was in?—The month I went I cannot say.

How long ago; was it in 1793 or 1794?—In 1793.

Was it winter or summer?—Towards the latter end of the year.

How long before Christmas, think you?—I cannot say that; I recollect the day when Yorke made his speech, I attended twice after I had been with Mr. Dundas.

Should you know the persons if you saw them, that attended this meeting at the end of this year?—I cannot say;—I should know Ashley.

If you saw the countenances of the same people that you saw in that room?—I do not know.—I could not swear to them.

Were they generally the same people, or different people?—Different people; they came from different divisions.

How many people do you mean to swear were in the room that rose up and shook hands with Mr. Yorke, when he stated what you have told the jury about bloodshed and about arms?—To say exactly I cannot remember; there might be in the room upwards of sixty, or between that and an hundred; the room was as full as it could hold.

I have almost forgot the name of the place?—A coffee house in Shire-lane.

Then they all shook hands with Mr. Yorke, in applause and approbation of what he said?—Yes, they did when he got up to quit the room.

Was that when he was going to Bel-gi-um? Yes.

Was that the word he made use of, that he was going to Bel-gi-um?—Yes—Bel-gi-am or Bel-gi-um.

Had you heard of that place before?—No, nor did not know what it was.

And he said he was going to head the French army?—Yes, he was going to Bel-gi-um, to head the French army, and should be back by Christmas; that he had received a letter from a friend of his in Bel-gi-um, that they would be ripe by Christmas.

You did this, no doubt, as a lover of your country merely?—Nothing else.

Nothing else but that?—No other reason.

Then you went voluntarily, without ever



being employed by any body, or desired by any body?—There were three of my friends I mentioned it to, who thought I should do right, they said, in giving the information.

Who are they?—One, his name is Broughton, another is a widow lady, Mrs. Grasswood, and Mr. Bryant.

How long have you been in business for yourself?—I am not in business for myself.

What are you then?—A linen-draper by profession.

But not for yourself?—No.

Whom do you live with?—I am not in a situation at present.

You are in a very singular situation, I think; what do you mean by not being in a situation?—Not in employment.

How long is it since you were in employment?—In May last.

Where did you live?—In Moorfields.

Where there?—At Mr. Kellerby's, No. 14, Finsbury-place.

He is a linen draper, I suppose?—He was then—he has since let his shop to another; he carries on the tailoring business.

How long did you live with Mr. Kellerby?—Five months.

When was it you went to him?—I left him in May—I went to him in December.

You came to him in December?—In December.

You came to him as a shopman, did you?—Yes.

Where did you live before that?—At Mr. Faulder's, a linen-draper, on Holborn-bridge.

Did you live long there?—I lived there almost two years.

Since you last left this Mr. Kellerby, have you been applying for any other business?—Yes.

What sort of business? (look across to the jury)—For the same.

It is a long time in this town, where there is so much linen and callico, to be out of business; whom have you applied to, during that time, to be employed?—I have applied to different people.

To whom?—To Twyman and James, in Holborn.

Whom else?—I applied to another person who has just opened shop; he was going to open shop, Mr. Marley, in Holborn, with him I agreed to live, No. 320, facing Gray's-inn-gate.

How happened it you left him?—Because I was obligated to attend here.

Then you have lost your business by attending here?—I have.

Then you are a good patriot, indeed! so that from a zeal for the truth, and in order to prove that which you have been proving, you broke off your agreement with this Mr. Marley?—Yes.

What was he to give you a year?—Twenty-five pounds.

How long ago is it since you entered into this engagement with him?—Some time before he opened shop.

You know, I do not know when he opened shop; when was that?—On the twenty-second of last month, I think.

How long was it before he opened shop, that you entered into this agreement with him?—I cannot say.

A day or two days?—A considerable time before.

How long?—I believe the latter end of July, or the beginning of August.

So you entered into an agreement with him; when did you go to tell him that you could not go on with this agreement?—I told him.

How long ago?—I told him the day after I had the subpoena that I must leave him.

How long ago is it that you had the subpoena?—I had the subpoena last Tuesday fortnight.

Who subpoena'd you?—Mr. Wood.

Were you told it was necessary that you should give up your employment for that?—No.

Did you ask, whether they would allow you to continue with this linen-draper, and give you notice when you should be wanted?—I did not.

Did you apply to the solicitor of the treasury, or any body engaged in this prosecution, to tell them that you had entered into such an engagement?—No.

So you gave up your employment voluntarily, because you were wanted here at the Old-Bailey, for half an hour?—Yes, for no other reason.

Did you ask Mr. Marley whether he would consent to take you as his shopman, and allow you to come here for the purpose of giving evidence?—No.

Had you an idea that Mr. Marley would have refused to permit you to obey the king's writ, by coming to give evidence here?—For that continuance of time that I expected it would be.

Where is Mr. Marley's shop?—In Holborn.

So you mean to swear, that having entered into an engagement with Mr. Marley, to receive 25*l.* a year, you put yourself out of employ without ever asking him, whether your attendance here was consistent with his employment, or asking the solicitor of the treasury, whether he would give you notice when you would be wanted to give evidence?—Yes; I only left him last Friday.

What reason did you give him?—I said I was going out of town.

Then you do not speak the truth, I suppose, unless when you are upon oath?—Yes, I do.

Why then did you tell him you were going out of town?—Because I expected to be sent for to Sheffield about Yorke.

How could you expect it when you knew that this trial was coming on, and you were subpoenaed here?—I expected to go after, as soon as this was over.

What made you suppose you should be called to go down to Sheffield as soon as this trial was over?—I only surmised that in my own imagination.



Had any body told you you were to be employed upon that business, after you had been here upon this job?—No.

Then what made you think you were to go down to Sheffield after Mr. Yorke?—Look at the jury, do not look so much at me, I have seen enough of you.—The reason of my thinking so was, I had been informed before, that he was expected to have been tried at the last assizes at York.

Who informed you so?—Mr. Wood.

You told me a little while ago you did not know you were to go down; it was only a surmise of your own mind?—Immediately after this was over.

You have not sought out for any employment since, have you?—No.

Where did you live before you lived with this Mr. Kellerby?—At Mr. Faulder's.

Where before that?—In Cheapside, with Mr. Smith.

How long is that ago?—That is between four and five years ago.

How long did you live with Mr. Smith, in Cheapside?—I was with him eighteen months, I believe.

And left him five years ago?—I do not know that that is exactly the time.—I left him, and went in the country for eleven months.

For your health, I suppose?—I went to see my friends.

Where do they live?—At Washford, near Salisbury, six miles from Salisbury.

Who are your friends you went to see there?—My aunt.

What is her name?—Alexander.

How long did you stay with her?—I was there eleven months.

That is eleven months out of five years, when you paid your affectionate respects to your aunt.—What did you do when you came back?—Where did you go next?—To Mr. Marley's.

That cannot be, you know; for that is five years ago?—I went from Smith's to Faulder's.

You know it is five years ago.—It is rather better than four, I believe.

You lived eighteen months with Mr. Smith; you went to your aunt's, and staid eleven months; when you came back, after having paid this visit, and after you had left Smith, where did you live before you went to Faulder's?—I was with an aunt in Old Bedlam.

Another aunt?—Yes.

Where is Old Bedlam?—On the other side Moorfields.

Is her name Alexander?—No, Simpson.

How long did you live with her?—It is impossible for me to say exactly how long it was.

Did you live there up to the time; for if you do not tell me that, I shall ask you where you did live—did you live with your aunt in Old Bedlam after you came out of the country up to the time you went to Faulder's? I do not want to hurry you.—I went to Smith's when I returned from the country; from Smith's I

went to my aunt's, in Old Bedlam, and was there till I went to Faulder's.

I am thrown out quite; you have changed the whole thing upon me at once—when you write your life you must be a little more correct. I will just take it down—how long is it ago since you lived with Smith?—Rather better than four years; but I cannot be certain.

What did you leave Smith for?—We had some words.

Had some words—what might the words be, think you?—I do not know I am sure exactly now; we had some words, and upon that account we parted.

You have an amazing good memory; you have repeated a whole speech a man made at a meeting; but you cannot remember the few words that passed between you and your master—now try; I will sit down and give you time.

Lord Chief Justice Eyre.—Why do not you give an answer?—I cannot recollect the words, it is so long ago.

Mr. Erskine.—Then you do not remember the words?—I do not.

When you have words with a man, it means you had a quarrel—You know I did not ask you what you said to your master, and what he said to you; but what was the quarrel about—You must have a strange memory for a witness—who is to repeat a whole speech, if you do not remember for what you left your master—I wish you would look at those gentlemen; they are very good looking-men.

Mr. Attorney General.—Mr. Erskine has said repeatedly, that this witness had represented that he stated the whole speech that Mr. Yorke made—I say, that is not only not correct, but it is very far from correctness.

Mr. Erskine.—I am exceedingly glad to be corrected, and I shall esteem it no interruption whenever you do; because I am so used to this work that nothing can put me out—Do try and recollect what was the nature of the quarrel between you and Mr. Smith.

Lord Chief Justice Eyre.—Do you recollect, and if you do, have you any objection to telling us?—No.

Lord Chief Justice Eyre.—Then do you recollect what you quarrelled with Mr. Smith about?

Mr. Erskine.—I am entitled to have the benefit of this gentleman's deportment.—If your lordship will just indulge me for one moment.

Lord Chief Justice Eyre.—Give him fair play.\*

\* Mr. Burnett (Treatise on various branches of the Criminal Law of Scotland, chapter 18) thus notices the English method of dealing with a witness on cross-examination:

“Nor do we allow that latitude—termed licence, to counsel in a question which is not frequent.”

Mr. *Erskine*.—He has certainly had fair play—I wish we had as fair play; but that is not addressed to the Court.

Mr. *Attorney General*.—But whom do you mean?

Mr. *Erskine*.—I say the prisoner has a right to fair play.

Mr. *Garrow*.—But you said it was not said to the Court.

Mr. *Erskine*.—But I am not to be called to order by the bar—Do you or do you not recollect what was the cause of your quarrel with your master?—Some words that happened between the shopman and me—We had words first, and then my master and I had some words on account of it, and then we parted.

What was the nature of the quarrel between you and the shopman, which led to the quarrel between you and your master; because now you see you begin to recollect it?—We had some high words and he called me, I said I would not be put upon.

People seldom begin to abuse one another without some reason?—We had words—I was hot as well as him, I suppose—We called one another fools—I do not know whether we did not strike one another—he wanted to be head—I said I would not put up with it.

Who was he?—His name is Williams.

What is his Christian name?—I do not recollect.

his *credit*, or, as may be said in many cases, his *temper*; by which a plain and honest witness may be often confounded, and an irritable one led into indiscretions as unbecoming the Court as injurious to the cause of truth and of justice. Fair and honest witnesses,—those who, to use the language of the Imperial Rescript, ‘*simpliciter visi sint dicere, qui non unum eundemque meditatum sermonem attulerint, sed ad ea quæ interrogaveras, extempore verisimilia responderint*,’ are entitled to the fullest protection of the law, and ought not by the ingenuity of a pleader to be led into perplexities and seeming contradictions. The state of society in our neighbouring country,—the description of those who often appear there as witnesses in the trial of crimes,—the greater frequency of false accusations, and sometimes of vexatious prosecutions, and the rule of evidence that the testimony of one witness may in certain cases be sufficient to convict; all account for, and perhaps render necessary, a mode of examination which has hitherto been little known in Scotland.”

“It is this *licence* in the English mode of cross-examination that has given rise to a doubt with some late writers on the English law, whether examinations in open court are in every instance preferable to private examinations, taken down in writing. See Evans’s Appendix to Pothier’s Treatise on Obligations, p. 236.”—Burnett on the Criminal Law of Scotland p. 466.—See also, as to this, Peake’s Law of Evidence, ch. 3, s. 2, pp. 143 *et seq.* and ch. 3, s. 6, pp. 206 *et seq.* 4th edit.

Do you know where he went to afterwards?—I do not.

Have you ever seen Mr. Smith since you parted from him?—Yes, once.

From Mr. Smith’s did you go to your aunt? You told me before that you had gone to your aunt’s, and returned from near Salisbury to Mr. Smith’s?—I went to Mr. Smith’s after returning from Salisbury; then I went to my aunt’s in Old Bethlem; there I was till I went to Mr. Faulder’s.

You are sure it was in the latter end of the year 1793, that you heard all this about pikes?—Yes.

What did you hear at the third meeting you went to?—I cannot say—I took no particular notice of any thing that I heard but that night.

How long did you stay the third time?—Till between eleven and twelve o’clock.

At what time did you go in the evening?—About eight—between eight and nine.

And staid till between eleven and twelve.—Yes.

Do you recollect any thing said that third night?—I won’t pretend to say I do any night, except that time that York made his speech; that I can recollect particularly—various things were read over at different times.

What were you doing between the hours of eight and twelve at night?—Sitting there—they kept the books open, and they admitted members, till nine o’clock, I think it was.

How many members were admitted that night?—I cannot say.

But there were some members admitted?—I do not know whether any members were admitted that night—there was in general, of nights; but the books were kept open for admission of them till nine o’clock.

But I take for granted, that a great deal must be said between eight and nine, and eleven and twelve; because you know you went there in order to inform?—I went there to hear what they had to say.

In order to inform, you have told us before—Then did you hear nothing at all?—I took no particular notice of any thing.

You went the fourth night—did you?—Yes.

What time in the evening did you go the fourth night?—I suppose about the same time.

And since you went in order to collect information, you staid, I suppose, till the party broke up. What was said that night?—I do not recollect any thing in particular.

Not a syllable?—I do not recollect any thing at all.

What time did you go the fifth night?—About the same time, I suppose.

And staid, of course, till it broke up?—Yes.

Can you recollect nothing that passed that fifth night?—I cannot recollect to say in particular what nights they were—I think I saw Mr. Yorke three times there—he came in with another person—he said they had been to Newgate to Mr. Frost, and that he was to



be pilloried the next day---he said he had had some words with Mr. Kirby.

What did you hear said that night by Yorke about the pikes?---I never heard Yorke mention about the pikes that I know of; it was a person in the room---I do not think Yorke was there the night the pikes were mentioned; it was a person came in from Sheffield, and said, they could get pikes at sixpence a-piece from Sheffield; another said, he thought it would do for them as well as for the people of Sheffield, and it was only living upon bread and cheese for one day.

So that is all that you can remember in all the times that you attended?---I remember hearing Yorke speak another time about the army's being defeated, and their having mop-sticks to defend Frost while he was pilloried.

Was this on the seventh night?---I cannot say.

*Thomas Whitehorn sworn.*---Examined by Mr. Bower.

Were you at any time a member of the London Corresponding Society?---I was.

At what time did you begin to be a member?---The same evening as the witness that was last examined.

About what time of the year---the beginning, the middle, or the end?---Towards the latter end of the year.

What is your profession?---I am shopman to a bookseller.

The first time you were there was with the last witness, Alexander?---It was.

Do you know how Alexander came to go there?---I believe we went together.

Did Alexander propose it to you, or you to him?---I cannot say; but we both went the same evening, I believe.

Were you both admitted the same night?---Yes.

How long did you continue a member?---I believe we paid for a quarter that evening---I was there, to the best of my knowledge, about four or five times.

Did you see Mr. Yorke there at any of the times?---Only once, to the best of my knowledge.

How long did you continue a member after the night you had seen Mr. Yorke there?---I was not there above once or twice after that.

Have you quitted the society?---Yes.

How came you to quit it?---I could not conveniently attend---I left my situation---I did not know any particular reason.

You remember Mr. Yorke being there?---I do particularly.

Were there few or many people in the room at that time?---There might be from forty to sixty people.

Did Mr. Yorke come in as an ordinary member, or distinguish himself in any way?---He came in as though he had been there before, and seemed to be very well known.

Did he say any thing?---He made a long speech; I left him speaking, and do not remember any part of his speech.

Do you mean that there might be forty people when you came in, or when you went away?---At each time the room was nearly full.

Though you do not remember the words of his speech, perhaps you can recollect enough to say, whether it was a moderate or violent speech, or what the subject of it was?---He seemed speaking very loud, but I was at the farther end of the room from him.

Cannot you take upon you to recollect even what the substance of his speech was?---No; not a sentence I could not swear to.

You were there the first night that the other witness went with you?---I believe it was the first night.

Do you recollect, before you went out of the room, whether any thing was said about Yorke, about his intentions of either being in one place or another, about going abroad, or being at home, or any thing of that kind?---I understood something that he was going abroad.

From whom?---I believe he mentioned it in his speech; I did not mind the particular words; or whether I understood it from any body else in the room, I am not certain; but I understood he was about quitting England.

Whom did you live with at the time you became a member of this society?---The late Mr. William Owen, in Fleet-street.

Where did you go to after that?---To Mr. Baxter's, a bookseller, No. 81, in the Strand.

Do you recollect enough of the speech that was made by Mr. Yorke on that night, to tell me what impression it made upon your mind at that time?

Mr. *Erskine*.---This cannot possibly be evidence.

Lord Chief Justice *Eyre*.---He is able to give no account at all of it; and as to any impression upon his mind, certainly you cannot ask him to that.

Mr. *Bower*.---Had you any conversation with Alexander afterwards about what had passed there?---I saw him a morning or two after we were there; I believe I might ask him how long he staid after I left the room, or something to that purpose.

You say you quitted the society soon after?---Very soon after; I believe I was not there above four times.

What was your reason for quitting the society?---Because I left the situation I was in.

Had you no other reason but that?---I lodged at a different part of the town, and had not time if I had a will to go.

Was your reason entirely because you had changed your situation, or had you any other reason besides?---No; if I had retained my situation, I should have gone again most likely.

Have you always said that that was your reason? Recollect yourself.---I do not know that I have said any thing about it; it was a matter I never thought to be questioned on, and never troubled myself about it.

What part of the room were you in—were you near Mr. Yorke?—No, quite the reverse.

Lord Chief Justice *Eyre*.—How long have you known Alexander?—Some months; I cannot say how long.

Lord Chief Justice *Eyre*.—What was his situation?—He was in a linen-draper's shop.

Lord Chief Justice *Eyre*.—What shop was he in?—At the first of my knowledge of him at Faulder's at Holborn Bridge.

*George Widdison* sworn.—Examined by  
Mr. *Bower*.

You lived at Sheffield, I believe?—Yes.

What is your business?—A hair-dresser.

Have you any other employ?—A turner.

Were you at any time a member of the Constitutional Society at Sheffield?—Yes.

About what time did you become a member?—I do not know exactly; it is about two years ago, or above that.

Were you at any time a delegate, at any division of that meeting?—Yes.

What division of the Sheffield meeting were you a delegate of?—We were not separated into divisions at that time; we were all united, and used to meet at different houses.

When was the separation made; how long after you became a member; do you recollect at what time you became a delegate?—I cannot say.

How many members might there be at that time?—Some few hundreds, perhaps.

Was the Fountain one of the houses you met at?—Yes.

Do you remember, at any time, being there at any meeting of the society?—Yes.

How many people might be there at the time?—To the best of my recollection, that was the first time I attended, and there was, perhaps, about two hundred.

And that is about two years ago?—Better than two years.

How long did you continue a member of that society?—About two years.

When you first remember the society, where did they hold their meetings at Sheffield?—At that house.

Do you know a person of the name of Yorke?—Yes.

Do you know him by any other name?—I do not.

When did you first see Mr. Yorke; about what time?—About a twelve-month ago, I believe.

Where was it?—I cannot tell exactly the place I saw him at; either at Mr. Gale's, or Mr. Marshall's.

Did you ever see him, at any time after, at any of the meetings of the Constitutional Society?—Yes; several.

Do you recollect at any time, whether Mr. Yorke took an active part; who was chairman?—He was generally chairman when he was there.

Was he often there?—I have seen him at about three or four different meetings.

About what time, as near as you can recollect, did you see him?—I saw him at one meeting in Queen-street.

When was that?—It was not long after the execution of the king of France.

When did you see him at any other meeting?—I saw him at another meeting, at the sign of the Barrel.

How long was that meeting, do you recollect, after the former?—I cannot recollect.

Do you recollect any thing particular in Mr. Yorke's conduct and speech, when you saw him at the Barrel?—I do not recollect any thing particular in his speech; he appeared to me to be rather in liquor, at the time he was there.

Do you remember seeing him, at any time after that, at a meeting in the open air?—Yes; I saw him at the meeting at the Castle-hill.

That was about the beginning of November last;—was it not?—No; April.

What was done at that meeting?—That was the meeting that the pamphlet you have been reading was proceeded upon.

Were you there when any delegate was elected?—I have been there when there have been delegates elected.

I mean a delegate to the Scotch Convention?—Oh! I was there.

When was that?—I do not recollect the time; I suppose it is a twelve-month ago nearly.

Who was the delegate?—Matthew Campbell Brown.

What was he?—He is an attorney by profession, I believe.

Was he an attorney at the time he was elected?—Yes, he was; but some little time before that he used to act as a player.

Did he go to Edinburgh in consequence of the appointment of a delegate?—I believe he did.

Did you see Mr. Yorke, at any time in the present year, at Sheffield?—Yes.

In what month?—I think the first time that I saw him was the latter end of March, or beginning of April.

Did you attend upon him?—I was employed as hair-dresser to him.

Where did he live at that time?—At one Mr. Cawthorne's.

Had you an opportunity, when you were about Mr. Yorke, to know what he was doing; whether writing any thing; or what he was about?—I do not know in particular what he was about.

Did you learn, during the time you attended Mr. Yorke there, whether any address, or any thing was going forward that he had any share in?—I cannot say I did; I saw an address afterwards that was said to be wrote by him.

Were you ever with Mr. Yorke, at any time when any thing was said about arms?—Yes; I was.

What time was that; tell us the circum-



stances first that happened respecting arms, when you have been with Mr. Yorke, and fix the time when it was?—It was some time in April, I think.

In April;—tell me what passed in your presence, at Mr. Yorke's, between Yorke and you, respecting arms?—I do not know particularly what passed between him and me; it was the general talk of the town, at the time the arms first began making; and Mr. Yorke and me had spoken about it: and other people likewise had been there speaking with him about it.

Who had been there speaking with Yorke about arms, when you have been with him?—Not when I have been with him; but people that have been there with him, I have heard them talking about them.

Do you recollect any particular people that you have heard talking with him about arms?—I have seen different people there; but I do not know whether those were the people that had been talking to him about arms.

Have you had any conversation with Yorke, or instructions from him, about arms?—Not directly with him; I made some myself.

What did you make?—I made a dozen for Mr. Gale.

Made a dozen of what?—Of pike-shafts.

Did Mr. Yorke know you were making them?—Yes, he did.

You were making some for Gale; did Yorke know that?—He did.

Did you tell Yorke, or how did he become acquainted with it?—I do not recollect whether he spoke first to me upon the subject, or I to him; he asked me once or twice, if I had made them; I told him I was making them; and when I had one made, I carried it to him to ask him, if he thought that size would do for them; he said he thought it would, or to that purpose.

How many did you make?—About a dozen, or a dozen and a half.

Did you dispose of them?—No, not myself.

What became of them?—Mr. Wilkinson took them.

Mr. Wilkinson is a magistrate there?—Yes.

Did he seize them all?—I do not know; they have not been in my house since.

You only made about that number in the whole?—Yes.

Had you any conversation with Mr. Yorke respecting the purpose for which these things were to be made?—Not particularly with him upon it, more than other people; it was generally understood, that it was to act in our own defence.

You understood it was to act in your own defence?—I meant to have one in my own defence.

Did Mr. Yorke say any thing to you about a reform in parliament?—Yes.

What passed between him and you, respecting the reform in parliament that was sought for?—We never had much about it be-

tween ourselves, but what passed in public; he has chiefly delivered his sentiments in public about it.

Have you ever had conversation with him in private about it?—I have.

Did you understand from him, what he meant by a reform in parliament?—Yes.

What did he tell you?—By way of universal suffrage.

How came that conversation between you?—I do not know; it was a thing that was often spoken of.

Did Yorke know what you meant by a reform in parliament?—We all understood each other, as I always understood, that we were all for universal suffrage.

When you say *we*, whom do you mean?—All the society.

Did you inform Mr. Yorke that it was what you understood by it?—I do not recollect particularly informing him, that that was my meaning, because it was a matter generally agreed upon among us, and so there was not much disputing about the mode of reform.

In the conversations you had with Mr. Yorke, did you and he uniformly agree about what you meant by a reform in parliament, or did you differ?—We agreed till some few weeks before Mr. Yorke left Sheffield the last time.

In what did you disagree with him?—I disagreed with him in respect of universal suffrage.

Did you tell Yorke so?—I did.

What said Yorke to that?—As near as I can recollect, I told him, when I went one morning to dress him as usual, that I thought the plan of reform we were upon would not do: he asked my motives for it: I told him, I thought it would carry us too far.—Well, says he, I have studied it some time myself; I have read various authors upon the subject; and I cannot see that any reform will be of service to the nation, except that.—Very well then, says I, so far you and I differ in opinion, and I will no longer subscribe my name to any thing that tends to universal suffrage.—Very well, he said, then you must give it up; and there the conversation broke up.

After that, did you continue to have the same sort of communication with Mr. Yorke, upon the subject, that you had had before, when you told him your ideas did not go to the length of universal suffrage?—No; I had very little conversation with him after that, it was very seldom that I had much conversation with him upon the subject, when I was with him, for my stay was generally short.

After that you had not the same kind of communication?—No.

How long was this before Mr. Yorke left Sheffield?—Perhaps two or three weeks before.

Do you remember the meeting in the open air, at Sheffield, in the month of April?—Yes.

Were you present at that meeting?—Yes.

Was Mr. Yorke there?—He was.

Did Mr. Yorke make a speech there?—Yes; he spoke at considerable length.

Did you hear any part of his speech?—Yes; I heard a good deal of it.

After that meeting did you go to see Gale?—Yes; I had seen Gale after that.

Had you any conversation with Gale or Yorke about being paid for the shafts you had made?—Yes.

Were you paid for them?—No.

Whom did Yorke tell you to apply to for payment?—He did not say in particular who I was to apply to for the payment.

Who was to pay you?—Those people that took them of me, I expected to pay me.

Did you make them then for sale?—Yes.

Did any person buy any?—No.

You do not know that the magistrates seized them, do you?—They told me so.

You have said you had only some private conversations with Mr. Yorke, but that he held many other conversations that were not private with you; you have often heard him converse upon these subjects with other persons, not private?—I have heard him speak with different people, who have been along with him at different times.

What have you heard him say to any of these persons you have seen him with, upon arms, of any description;—do you know Davison?—Yes.

Have you ever seen him with them?—No.

He was a member of the society?—Yes.

Have you heard Davison say any thing respecting arms, or providing arms?—Davison was a customer of mine, and he and I frequently spoke about them.

A customer of yours; in what way?—In the hair-dressing business.

Had you any directions from Davison, at any time, respecting those shafts?—Yes.

What conversation had you with him?—He did not give me to understand, that any particular orders were given for them; only that the people in general began to call out for them; that they thought themselves in danger, from the state of the people's minds at that time.

That Davison told you?—Yes.

You understood it was for your own defence?—Yes.

Had you any of the books, as a delegate of this society?—Yes.

They are not here, I believe?—No; I believe not.

*George Widdison cross-examined by Mr. Erskine.*

You seem a decent man; you were two years a member of this society?—Yes.

And till within a few weeks of the time that you have been speaking of, you had been of the same opinion with the rest of the society for universal suffrage?—Yes, I had.

Were you a friend of your king?—Undoubtedly; and of the queen, both.

VOL. XXIV.

As far as you could collect from the conversation and behaviour of these people, with whom for two years you had associated, and who were for universal suffrage, did they appear to you to be people that loved the king?—Yes, in general.

I ask you, as an honest man, would you have continued for two years in that society, if you had not had reason to believe, from all you saw and heard, that they were people that loved their king?—No; I would not have continued with them, if I had thought they acted from other motives.

You did not think that universal suffrage was inconsistent with love to your king?—Undoubtedly not.

What was generally understood by universal suffrage: and who were the people after which your society stated that they copied, in their desire of universal suffrage?—The first resolution that we came into, in that business, was what we took from the duke of Richmond's plan.

Of universal suffrage?—Yes.

Had you any of the publications, at that time, of the duke of Richmond's?—Yes; a good many.

Do you remember a letter to colonel Sharman that was published?—Yes; that was in it.

Should you know it, if I were to show it you?—Yes.

Was it ever read in the society?—Yes; I believe it has been.

Did you ever hear it read?—Yes; I have heard it read several times, and I think I have heard it read once or twice in the society.

Was it generally approved of?—Yes, at the time that we adopted it.

Is that it? [showing the witness a printed copy of the duke of Richmond's Letter to colonel Sharman]. Should you recollect, if I were to read this part of it to you? Do you recollect this?—"The subject of a parliamentary reform is that which, of all others, in my opinion, most deserves the attention of the public, as I conceive it would include every other advantage which a nation can wish; and I have no hesitation in saying, that, from every consideration which I have been able to give to this great question, that for many years has occupied my mind, and from every day's experience to the present hour, I am more and more convinced, that the restoring the right of voting universally to every man, not incapacitated by nature, for want of reason, or by law, for the commission of crimes, together with annual elections, is the only reform that can be effectual and permanent; I am further convinced, that it is the only reform that is practicable."—Yes, that is it; I have read it frequently.

Now I ask you, upon your oath, whether, as far as as you know (what passes in the heart of another man you cannot tell), but as far as you have collected from the conversation of the people in general with whom you associated, did it appear to you, and did they



express themselves, that this was their object?—Yes.

Did it appear to you, that there was any disposition in those with whom you associated, to compel this by force of arms?—I never understood it so.

Was it from any fear of that sort, or because you changed your mind on the idea of universal suffrage, you thought it not so good a plan?—I did not think the people's minds prepared for it.

Do you still continue to think as you did, provided people's minds were prepared for it?—When I read that, I looked upon the plan that was laid down so clear, that I thought it could be done without any kind of confusion, provided the people were acquainted with it; but from circumstances since, and upon more mature reflection, I had reason to believe they were not; and it was from the same conviction, that I dissented from it, though I at first approved of it.

Were you a member of this society at the time they sent their delegate to Scotland?—Yes, I was at that time, and some time afterwards.

Did you think you were doing any harm when you consented to the sending of that delegate?—I did not consent to it—I happened to be too late, or, I believe, I should have given my consent; but I should not have thought I was doing any harm in it.

What was the understanding of the people of that society of the nature of that which was to be done in Scotland, to which they sent their delegate?—I never understood that they had any other object in view than of drawing up an address to the nation, and likewise a petition to the government, the parliament, or some other branch of it.

Did you ever hear any of them say, that petitioning from private societies of men could not be supposed to have such an effect upon parliament?

Lord Chief Justice *Eyre*.—Do not put the very words in the witness's mouth.

Mr. *Erskine*.—Your lordship recollects I am in a cross-examination.

Lord Chief Justice *Eyre*.—You are not to put the very words in his mouth, even on a cross-examination.

Mr. *Attorney General*.—It is a misfortune that that has been the course.

Mr. *Erskine*.—It has been usual so to examine on a cross-examination in the court in which I practice.\*

\* The system thus sanctioned in England differs from that which prevails in Scotland, as appears by the following extract from Mr. Burnett's Treatise:—

"As to the mode of examining witnesses, it is only necessary to observe, that it has been all along a rule in our practice, not to permit leading questions to be put to witnesses; that is, such as from the form in which they are put, clearly imply and point

Lord Chief Justice *Eyre*.—I will not stop you, but it is contrary to my practice and my opinion.

Mr. *Attorney General*.—I hope your lordship will give us the same law on our side.

Lord Chief Justice *Eyre*.—In a cross-examination certainly.

Mr. *Erskine*.—I will conform myself as near as I can to your lordship's wish.

Lord Chief Justice *Eyre*.—I would not lay down a stricter rule in a case like this than has usually prevailed—you say it has been your usual practice.

Mr. *Attorney General*.—Those gentlemen who assist me, and who practise in the same court, say it is not so.

Lord Chief Justice *Eyre*.—I think if you will examine the witness, so as that we may have his own answers, instead of echoing your words, it will have ten times more effect with the jury.

Mr. *Erskine*.—I will do it with pleasure. Do you recollect any thing being said about the expediency of petitioning parliament from private bodies of men?—I do not understand what you mean by private bodies of men; I always understood that it was in public bodies that we petitioned; our matters were always public.

Was it ever expressed by any body, or from any thing that passed in your presence in the society, previous to, and at the time of sending the delegate to Scotland, that they were to assume all the functions of parliament, and be themselves a parliament?—By no means; I never understood it in that light.

Was there any thing said by any of them, as if that was their conception and their plan?—No; I never understood it so.

Would you have been a party to any such thing, if you had understood it so?—No, I hope not.

Then did it appear to you, from what you collected (we know there might be bad men in any society) but from what you collected in general of the disposition of your society, from what you heard them say, and the sort of people they were—did you then, and do you now, consider them to be people attached

out to the witness the answer which is wished for, as '*did not you see, &c.?*' or '*was it not so?*' Neither do we make any distinction in this matter between a willing or an unwilling witness; nor between the cross and chief examination, as was expressly found in the case of Stevenson and others for theft, 28 November 1808; differing in this from the practice in England, which allows leading questions to be put in the cross-examination."—Burnett on the Criminal Law of Scotland, ch. 18, p. 465.

With respect to Leading Questions, see Rosewell's case in this Collection, Vol. 10, p. 190, Peake's Law of Evidence, chap. 3, sec. 6, pp. 205, *et seq.* 4th edit., and Phillippe's Law of Evidence, part 1, ch. 8, pp. 104, 108.

to their king, at the same time that they were attached to their own freedom?—I always looked upon them in the same light.

Are you speaking now your own sentiments?—Yes, not only mine, but what I understood were the sentiments of those I was associated with.

Then you look upon them as persons attached to their king?—Yes; because I always looked upon it that the king's preservation and the liberties of the people were inseparable; and I believe that was the general idea of the people that were concerned in the society, that conducted it, most, if not all of them.

That the king's preservation, and the liberty of the subject, were inseparable?—I always understood it in that light.

Was any thing said about arms for the purpose of resisting the laws that are under his majesty's execution?—I never heard it mentioned in that light.

Was any thing ever said in your society concerning arms for attacking the king's majesty, and putting down the laws which he was to execute?—Not in my hearing.

Was what was said about arms at the time the band-bill was put out?—I do not remember arms being spoken of in the society; it was generally spoken of in conversations we had in each other's houses.

When you made a pike for yourself, what did you make it for?—To defend myself provided it should be necessary.

What made you collect at that time, about the month of April, that it was likely you should want arms for your defence?—Because there was not so good an understanding between the two parties as there was before.

Whom do you mean by the two parties?—The one, us who were for universal suffrage, the other, who opposed it.

Had you any intention, in making a pike for yourself, to defend yourself against the magistracy of the country, or those people who might illegally attack you?—Only against those people who might come without any legal authority from the magistrate, or from the government.

From what you knew of the sentiments of the other persons of the society, did it appear to you that that was the general notion?—Yes, I always understood it so; because we have many times been threatened in different companies that we have been in.

Do you mean that you had been threatened with personal violence?—Yes, I have myself in different companies that I have frequented; I have heard them remark, those whom we generally looked upon as aristocrats, or whatever name you might give them, some of the violent ones; that if any thing should happen, that if an invasion should take place in this country, they would destroy their enemies at home first. I have heard that alleged against me and my friends frequently.

What answer did you make when you heard that alleged against you and your friends?—I do not know in particular what reply I have made; sometimes perhaps I have said, that I hoped that was not the general disposition of them; if it was, we should be under the necessity at least of taking means to be prepared for them, or to that effect.

Then you, and those with whom you associated, were well disposed to the government and the constitution of your country?—Yes; I never had any intention of altering it, and never understood that that was the intention of the society.

Who was it, if there was an invasion in the country, that said they would make an attack upon the others?—That their party would; that they would follow the example of the French.

And attack you and your associates?—Yes.

From any thing that passed in your society relative to their wish of universal suffrage, was there any thing said against the Lords' House of Parliament, or only that you wanted universal suffrage in the Commons?—That very rarely formed any part of the conversation with respect to the House of Lords, and the only three pamphlets I ever saw upon it were wrote by major Cartwright: he proposed some alterations in respect of representation of the House of Lords, with respect to filling them up by representation.

That was the only book you ever read upon the subject?—Yes.

But that was no part of the plan of your society?—No, I never understood that that was adopted; that that was any part of our plan.

Upon the whole, am I to understand you that you continue still attached to the king and constitution?—Yes.

You say you saw Mr. Yorke once when he was drunk?—No, he was not drunk; but did not appear to be so sober a man as generally he is.

Have you often seen Mr. Yorke attending at your meetings which you have been speaking of?—I have seen him at public meetings some few times.

With the exception of the time when he was a little in liquor, as you say, how did he conduct himself in his conversations?—Generally very well, from what I saw or heard of him; he used to get a little warm in conversation now and then.

*George Widdison* re-examined by *Mr. Bower*.

I observed you said, that, in general, you thought people who were desirous of universal suffrage, were well affected to the king, you said, that you understood so in general. You heard Mr. Yorke's speech; now did it strike you that he was one of those people who were well affected to the king?

*Widdison*.—The speech at the Castle-hill, do you mean?

*Mr. Bower*.—Yes.



*Widdison.*—I had not sufficient reason to think he was otherwise.

At other times, from his conversation, did you imagine him one of those persons who were well affected to the constitution and government?—I had never reason to suspect otherwise.

Did you happen to know that there had been a communication between Davison and some persons in London, about sending arms to London?—I never knew it till I saw the letter published in the newspaper.

When was that?—In the latter end of May last.

Was that published at Sheffield?—Yes, in a newspaper, at Sheffield, and in a London paper, I believe.

Till that time you never knew that there had been any communication between Sheffield and London about arms?—No.

You never knew that the convention had any other object but to petition parliament for the alteration wanted?

*Widdison.*—Do you mean the English or Scotch Convention?

*Mr. Bower.*—The Scotch.

*Widdison.*—I never understood they had any other object.

You never understood that the society had any other object in sending a delegate there, than for effecting a reform in parliament; that was what you understood?—Yes.

Were you there when the thanks of the Sheffield society were voted to Mr. Paine?—Yes, I was a member of it at the time.

Were you present when the thanks were voted?—I cannot remember.

Have you read Mr. Paine's books then?—Yes.

Then I may take it you are of opinion, after reading those books, that the thanks of the society were given to the author of that work by people properly attached to the king and constitution?—Yes.

*Mr. Bower.*—Then I will not trouble you with any farther questions.

*Henry Hill sworn.*—Examined by *Mr. Law.*

What are you?—A cutler.

You live at Sheffield?—Yes.

Were you at any time a member of the Constitutional Society at that place?—Yes.

When did you begin to be a member of it?—As soon as it was instituted, the second or third night.

In what year was it instituted?—I think in the year 1792, but cannot be positive.

How long did you continue a member of that society?—Very near twelve months, as near as I can recollect.

Do you remember during the time you were a member of that society, Mr. Yorke's visiting the society?—Yes, once.

Do you remember when that was?—I think in the year 1792.

Do you remember the meeting on the Castle-hill?—Yes.

When was that?—That was in last April. Do you remember the lecture on the Fast-day?—Yes.

That was in February, 1794?—Yes.

Do you remember after this lecture had been given on the Fast-day, any talk in the town about arms?—Not till some time after that.

Do you remember the meeting of the 7th of April, 1794?—Yes.

About that time, was there any conversation prevalent in the town about providing yourselves with arms?—Yes.

Do you know Davison?—Yes.

What is he?—A printer.

He worked for Gale?—Yes.

Mr. Yorke lodged at Gale's at one time, did he not?—I cannot tell, he did not at that time.

Had you an application from Gale, to make any blades for pikes?—Yes.

When?—In the beginning of April.

Did he order any particular number?—No.

What orders did he give you respecting the making of them?

*Hill.*—Do you mean in the size and number?

*Mr. Law.*—In both.—He brought a bayonet for me as a pattern to make them by, I made one in a bayonet shape, and Davison approved of it.

Did he tell you where you were to get the iron; did you take it upon his credit or your own?—Upon his credit.

Who was to pay you for the workmanship?—Davison.

Did that pike you made from that model meet Davison's approbation?—He did approve of it.

Did you carry it to Camage's?—It was in Camage's house he saw it.

Did you ever meet Yorke at Camage's?—

No, I was desired by Davison to go to Yorke.

Did you go to him?—Yes.

Did you show him any of those blades?—Yes.

What did he say about them?—At the time I went to him, he had just received an account of Mr. Walker's trial, at Manchester, and he was so overjoyed, that he had very little to say then about the blade that I showed him.

Did he approve of it?—He had little to say; I do not know whether he said any thing, he was so overjoyed.

He was going off to Manchester then?—No.

At any subsequent time, had you any conversation with Yorke, about those blades?—No.

You said he was overjoyed, what was he overjoyed at?—At being liberated in that indictment with Mr. Walker, and Dunn punished; Dunn was put into prison.\*

He said nothing upon that occasion res-

\* See Vol. 23, p. 1166 of this Collection.

pecting the pike?—Not as I remember now.

Did you ever see him afterwards, with a pike properly mounted upon a shaft in his hand?—Yes.

When was that, how long after?—It was sometime after, perhaps a fortnight or three weeks; I cannot justly tell when.

Did he make any observations upon that pike, so prepared and mounted?—As little as possible; there were some young girls in the room that he was very fond of, he took it in his hand, and pretended to give it a push at one of them.

Did Davison apply to you to make any greater number of pikes afterwards?—No; when he first gave me orders, I was to make so long as he employed me.

To what number did you go on making?—About a hundred and twenty, or a hundred and thirty.

Did Davison take up these and pay you for them?—He paid me for some of them.

Had he the whole of that hundred and thirty?—Yes.

Where did you use to carry them to when you had made them?—Sometimes I took them to my own lodgings, sometimes to William Camage's.

Did you deliver them to Davison at William Camage's?—If he was there I delivered them to him, if not I left them there.

What pay had you for the workmanship?—Two-pence a piece.

You saw Davison's letter to the prisoner?—I did.

And read it?—I did not read it, but heard him read it.

Did he say any thing after he read it, respecting any demand there might be from any other quarter for those pikes, London, or any where else?—There was some little conversation about it, but I cannot recollect what it was.

Did he express any expectation of an order from any other place, for pikes of the same sort?—He said he did not know but there might be the same need for them in London, as there was in Sheffield.

What did you understand to be the purpose for which they were prepared at Sheffield, and which might make them likewise wanted in London?—To act upon the defensive, in case they should be attacked by an unlawful set of men.

This letter was to the prisoner at the bar, as secretary of the Corresponding Society, I understand?—I do not know, I did not look at the direction.

Did Davison say whom they expected would attack them?—The opposite party that were in Sheffield.

But in London who was to attack them?—I cannot say any thing about that, there would be the same occasion in London I suppose as in Sheffield, if there should be the same necessity.

That they should be attacked in London

by the same, or similar people as in Sheffield?—If they should be attacked.

How soon after your delivering these hundred and thirty pikes to Davison did he abscond—when did he leave Sheffield?—I think about the middle of May, if I can recollect right.

*Henry Hill* cross-examined by Mr. Gibbs.

You say you were a member of the Constitutional Society, from the time that they first came together?—Yes.

I suppose you would not have been a member of that society, if you had not supposed it would have been faithful to the king?—Certainly not.

Had you ever any intention in becoming a member of that society, to endeavour to displace the king from his throne?—No, I never heard a syllable of the sort at Sheffield.

Do you suppose that was the view of any of those who were members of the society?—I never heard them declare it was, they were always friendly to the king for any thing that ever I saw by them; I never saw any thing to make me think the contrary.

What reform was it they wished to have brought about?—A more equal representation in the Commons House of Parliament, as I understood it.

Whose plan of reform in parliament did they follow?—They followed the duke of Richmond's plan, as I understood there were a number of letters distributed in Sheffield.

Did you hear the members of this society say, that they formed themselves upon the duke of Richmond's plan, that they followed his plan?—Yes, I have heard that said several times.

There were some pikes prepared at Sheffield; what was the reason of your preparing them?—From the opposite party using such threats, even in the dead of the night, they have come where I lodged and insulted us of a night when we have been in bed, and have sworn they would pull down the house and burn it, calling us Jacobins, and calling the house Jacobin-hall, because the society used to meet there, some divisions of it before I went there.

And you had actual reason to expect danger from them?—Yes, by their threats, they have even shot into people's houses, an armed set of people that made a parade in the street; and when going home at twelve o'clock at night, they shot under a person's door.

This was an armed set of people at Sheffield?—They procured arms and paraded the street, and if there were any great victory gained—

Upon some occasion of this sort, they fired through or under one of the doors?—They did.

Was it this sort of conduct, and those threats, that induced you first to prepare arms?—No other thing, no other view.

Had you, or any of the people of Sheffield,



a view of attacking the magistracy of the country with those arms you prepared?—No, far from it.

Were they then meant merely for your own defence?—Merely for self-defence.

And for no other purpose?—For no other purpose, that ever I knew.

*Henry Hill* re-examined by *Mr. Law*.

Before you prepared these pikes for self defence, did it never occur to you to mention to *Mr. Wilkinson*, a magistrate in the neighbourhood, that you were in need of this defence, if you should be attacked?—I do not know that ever there was any complaint to him.

Do you know *Mr. Althorp*?—No.

Did you make a complaint of the danger which you were in to any other person that you can name?—I do not know that any complaint was made to a magistrate.

Or to any other person that you can name?—No.

You have said you were well affected to the King, and that you had no objection to the House of Lords, that you only wanted to effect a reform in the Commons House of Parliament?—Yes.

Were you present at the time thanks were voted to *Mr. Paine* for his works?—No.

Do you know that a vote of that sort was come to by your society?—I do not know any thing about it.

You do not in fact know that any such vote was come to by your society?—No, I do not know any thing about it.

*Robert Moody*, sworn.—examined by *Mr. Garrow*.

You are a joiner at Sheffield?—Yes.

Were you a member of the Constitutional Society formed in that place?—I was not a regular member for above a twelvemonth before I was apprehended.

Besides the general meetings of the society, had they any meetings which were called district meetings, division meetings?—They had.

Did you know a person of the name of *Henry Yorke*?—Yes.

Did you ever see him attending at any of the meetings?—I have seen him at some of the public meetings.

In what character did he act?—As a speaker and orator whenever I saw him.

Did you ever see him act as chairman?—Yes.

When you say you saw him in the character of an orator, do you mean you saw him addressing the people?—Yes.

Where?—I saw him at a meeting at the Castle-hill, and one or two other meetings.

How many people might be present at the Castle-hill?—I think not less than ten thousand.

Upon that occasion you heard *Mr. Yorke* speaking to the persons assembled there?—Yes.

Were you near enough to hear and collect

distinctly the substance of what he said?—No, I was at a distance.

Did you stay till the business was concluded?—Yes.

In what way did he go home to his apartment?—A coach was brought, the horses were taken out, and the populace drew him home.

Do you remember a person of the name of *Camage* being there at that time?—Yes.

Did you hear him read any resolutions?—I saw him up reading something which I understood to be the resolutions; I afterwards saw some resolutions in the *Sheffield paper*.

Was that newspaper printed by *Gale*?—It was.

Did *Broomhead* act as secretary to that meeting?—He did.

Did you after that see *Camage* upon the business at your shop?—Yes, he came one time, and brought me four or five pike blades and spoke to me to make three dozen of handles.

Who came with him when he came to you?—There was a person with him, I do not recollect who.

Did the person who came with him bring any?—I do not know whether each had some, or one brought all the parcel.

How many blades might *Camage* bring to you upon the whole to be fitted into handles?—There were blades enough to answer the shafts he had ordered, three dozen.

Did you learn from *Camage* what the purpose was for which those pikes were to be made?—No, I had no orders from him but just to make them, I did not inquire any thing about the purpose they were for.

Who were the persons in general that were furnished with those pikes?—I never knew who they were for, but I understood by *Camage*, that a man of the name of *Davison* was to take them from him, or he had chaps for them so far as I should be paid ready money for them when they were done.

Did you learn in the society from members of it for what purpose those pikes were made?—I did not know farther than what I could collect and supposing from what I could collect, that they were for self-defence.

Self-defence against whom?—Against people by whom they supposed they might be illegally attacked, for reports (and only reports as I know of) had said that they should be dispersed; they had met frequently in large meetings, and many of the opposite opinion said, that they should be dispersed, and how far they might influence a justice of the peace or any body to give them any authority, we supposed a little matter might have done it: they might have used some means which they supposed must be injurious to some of the parties, and they got these, as they wished to defend themselves in case they should be illegally attacked.

Do you recollect any conversation about the time of any of your public meetings, with respect to the dragoons which were in the

neighbourhood of Sheffield?---Yes, I remember so far that it was said---

Mr. *Erskine*.---Said by whom?

Mr. *Garrow*.---Was it said by Camage, or any of the members of the society?---I do not know by whom, but I have heard it said.

Lord Chief Justice *Eyre*.---Heard it said, where, by what people?---Some people in town, who I cannot tell; it was a report, it might be true, or might be false.

Mr. *Garrow*.---To which of those meetings did the conversation about dragoons apply, was it to that upon the Castle-hill?

Mr. *Gibbs*.---He is asked to what meeting it applied, whether it applied to that at the Castle-hill!

Lord Chief Justice *Eyre*.---The question is not quite so correct as it should be, because the object is to see, to which meeting it applied.

Previous to the meeting at the Castle-hill, and how long previous to that, had there been any conversation about the dragoons?---I know of none before that.

After that meeting at the Castle-hill, did you hear from Camage, or from any other member of your society, any conversation respecting the dragoons in the neighbourhood of Sheffield?---Not from any of the society, I do not know who it might be from that I heard it.

Attend, do you mean to say, that you did not hear it from Camage?---I did not.

Nor from Davison?---No.

Nor from Broomhead?---No.

Nor from Gale?---No.

And in general, not from any member of the society?---Not from any one particular man.

I do not ask you from any one particular man; were there any dragoons in the neighbourhood of Sheffield?---There were.

When you were in Camage's shop at any time, did you see any leaden instrument, or model of an instrument?---I did.

What was it?---It was what was called to me, in the privy council, a night-cat; it was called when it was shown to me a cat.

What passed at the time that that cat, so called, was shown you in Camage's shop?---It was lying in the window; I took it up and examined it to see what it was, and asked what that was; he told me as he had been told I suppose, he said it was an instrument that was, or might be made use of to throw in the streets; it would lie pointed upwards, which would prevent horses from travelling in the streets.

Did it seem to you, that the instrument was well enough calculated to do what he stated it had, or might have done?---It did.

At any way it presented a point?---Yes.

Where did he state he had been told such an instrument had been used?---He never told me that any such instrument had been used.

You said it was an instrument that had been

or might be used to throw in the streets, it would lie pointed upwards, which would prevent horses from travelling in the streets, did he mention any town in the course of that conversation?---No.

Who was present besides Camage at the time that passed?---Nobody but Camage and me.

At any time when you were present at Camage's shop, did you see any blades for pikes brought home by any body?---Yes, I once saw some brought in by a man.

How many?---A few, perhaps six or eight; I do not recollect.

Did you see any pike complete at Camage's?---I never saw any but part of them that I made.

That is to say your shafts and his blades made complete pikes?---Yes.

[A pike brought into court.]

Is that the sort of instrument that you made?---Yes.

What is the shaft made of?---That is made of deal.

That is not shod, is it?---No, nothing but the wood.

Nor loaded, is it?---No, there is nothing in it.

Do you remember Mr. Davison making any application to you with respect to letters?---Yes; I remember him asking me to let a letter or two be directed to be left with me for him; I told him he might if he pleased direct his correspondent to direct his letters to be left with me; I do not know any thing more about it, for I never had any letters.

That blade fits into the hoop at the top and takes out occasionally, does it not?---No, it is fast in.

I do not know whether you knew of Davison's correspondence in London, upon the subject of pike-blades?---No, I know that I did not know of any of his correspondents.

You did not know of that letter that he wrote from Sheffield?---No.

How long had Davison come from Leeds to Sheffield?---I suppose he might be two months, I suppose not more.

*Robert Moody*.---Cross-examined by  
Mr. *Erskine*.

If I understand you right, Davison had written some letter or letters which you knew nothing of, and if any answers were to come to those letters that he might have written, they were to come to your hands?---Yes.

None ever came to your hands?---No.

How long were you a member of this society?---A year.

Were you a member at the time that the delegate went?---No.

What was this cat, a large thing, or a small thing?---A little thing, the times might be an inch long, and it would stand an inch and a half high, or so, when it was down.

Were any made from that model? did you



ever see one?—No, I never heard of, or saw any.

Was this thing concealed?—No, it lay open in the shop.

Then any body who had passed by might have seen it of course?—Any body that had gone where he was at work, might have seen it.

Did you ever hear any orders to make any from it, or see any made from it?—No.

Did you ever see a real one in your life?—No.

Did you frequent the society much?—Not of a year back; I had not before I was brought away.

Brought away by what?—In custody here.

Up to the time that you were taken into custody, was any thing said in your hearing against the king?—I never heard any thing said against the king.

Were you yourself a friend to your king and the constitution, as well as you understood it?—Yes, I was, I believed him to be a good man, and it would be a crime to do any thing against a good man.

Were the people with whom you associated, decent, well-behaved people?—Yes, I always endeavoured to get into the company of those who were better informed than myself, in order that I might get improved.

You say that it was about the month of April that they first began to see about these pikes?—It was.

Was there ever any thing said about pikes, before those threats of some people at Sheffield that frightened you?—No, I never heard of any.

And how many were made in consequence of the apprehension that some people had that they might be ill-used?—There were very few made; Camage ordered of me three dozen, and I made two dozen and nine or ten.

Do you know of any others having been made besides those?—Widdison made some handles I understood, but I understood that no pikes had been made.

If you had understood they were made for the wicked purpose of making an attack upon the government, would you have had any hand in making them?—I would not.

*Robert Moody* re-examined by *Mr. Garrow*.

How early had you apprehensions of those attacks?—Only lately, in the course of a few months, before I was brought from Sheffield.

Were there any pikes made that you know of, until Sheffield and its neighbourhood began to raise volunteer companies for the defence of the country?—Those were made before.

How long before?—Perhaps two or three weeks; they were not made before they were talked of.

You told me what you apprehended was, that a magistrate would lend his authority upon a little, to disperse your meeting, and

to resist; that was your object—Did I take you right?—It might be so, or they might take upon themselves to disperse us without the authority of a magistrate.

In either case those instruments were to be used for your defence?—If it was found necessary.

About this cat, as it was called; supposing a number of these cats, not made of lead as the model was, but of iron, to have been thrown into the roads, I ask you, whether they were not most effectual instruments to have prevented any cavalry acting?—It appears so to me.

*John Edwards* sworn.—Examined by *Mr. Garrow*.

What are you by business?—A silversmith. Were you a member of the London Corresponding Society, as it was called?—Yes.

Do you know the prisoner at the bar, Mr. Hardy?—Yes.

Did you know him in any character connected with the London Corresponding Society?—I understood he was secretary to the London Corresponding Society.

Did you, at any time, receive any direction from the prisoner at the bar, to any person at Sheffield?—I did receive a direction.

To whom was that direction?—I cannot recollect the name.

Could you recollect the name, do you think, if you heard it?—I have been told since I have been in custody the name, but I cannot swear that that is the name of the person.

At what time was that direction furnished you, by Mr. Hardy to some person at Sheffield; no matter who he is, or what his name is?—I think in the month of April, I cannot be certain.

What year?—In 1794.

For what purpose was that direction given to you by Mr. Hardy, and what was to be supplied in consequence of it?—I went to Mr. Hardy, one day, at his house; I asked him whether he was going to send to Sheffield, I should be much obliged to him if he would inclose a few lines to some person at Sheffield, if they could inform me if there was any person there that could forge the blades of some pikes.

Did the prisoner, in consequence of that application, furnish you with any direction to any person at Sheffield?—Mr. Hardy read part of a letter to me, and gave me a direction to a person at Sheffield, wrote on a small piece of paper.

What was the purport of that which he read to you, as part of the letter from Sheffield?—I cannot recollect the purport of it at present.

The substance of it?—That a plan had been formed there to forge blades for the people at Sheffield.

This was upon your application to him for a direction to somebody at Sheffield, to make blades for pikes?—Yes.

What did you do in consequence of that?—  
I spoke to two or three of the members of the London Corresponding Society, and I understood that there were several persons who wished to furnish themselves with such things; and as such I took upon myself to go to Mr. Hardy, to know who I could send to at Sheffield, to get them; and a meeting was to have taken place on the Friday before Mr. Hardy was taken up.

Where was that meeting to have taken place, on the Friday before the prisoner was apprehended?—At the Parrot, in Green Arbour-court, in the Old Bailey.

For what purpose?—They were to have met there; and any person that put down the money might have them; the blades were to be sent up from Sheffield to London.

What sum of money was to be put down by those who chose to have blades, for pikes from Sheffield?—One shilling I understood.

Was that conversation at any division meeting of the London Corresponding Society?—No.

Was this communication with the prisoner mentioned at any division meeting?—No.

What number did you belong to?—No. 29.

Were you present at any time at No. 22?—Yes, I think I have been.

Do you know a person of the name of Gosling?—Yes.

Do you know another person of the name of Hillier?—Yes.

A person of the name of Baxter?—Yes.

Spence?—Yes.

What division was Baxter delegate for?—I do not know.

Was he a delegate to any of the committees of the Corresponding Society?—He was.

Was Spence?—He was.

Was this plan of sending to Sheffield for pike blades, mentioned to any of those persons?—I mentioned it to Baxter, to Spence, and to Hillier.

Do you know of any place in the borough of Southwark, where there was any meeting connected with this subject?—I have heard there was a place.

Did you ever hear from Mr. Hardy, or any member of the London Corresponding Society, that there was such a place?—I heard there was a place in the Borough.

Of what sort, and for what purpose?—A place where they met to learn the exercise.

What exercise?—To learn the use of the musket.

Was there any subscription at that place in the Borough, where the use of the musket was to be learned, for any and what purpose?—I do not know.

Did you learn from any of the members of that society that there was?—Never.

Do you know a person of the name of Higgins?—Yes.

And a person of the name of Godwin?—Yes.

VOL. XXIV.

Were they members of the London Corresponding Society?—Yes.

Did you learn from them, or from either of them, whether there was any society of the sort you have just mentioned?—I have understood from Godwin, that there was a society in the Borough, but I was never there.

You learned then, from this man, who was a member of the London Corresponding Society, that there was a place in the Borough where they learned the use of the musket?—He told me so.

Did you learn from him, whether he belonged to it, or not?—No.

Did you learn from him, or from any other member of the London Corresponding Society, where that society, for learning the use of the musket, met?—No.

Do you know a place, called Bandy Leg Walk?—I have heard of it, but I never was there.

Have you heard of that place from Hillier, Baxter, Spence, or Higgins, whom you have stated to be members of the Corresponding Society?—I did not hear where it was.

Did you know a person, called Franklow?—I have heard of him.

Was he a member of the society?—I believe he was; but he was not a member of the division I belonged to.

Do you know where Franklow lived?—I have known since I have been in custody, that he lived at Lambeth, but I did not know before.

Mr. *Erskine*.—Does your lordship take it, that what was said by Higgins or Hillier is evidence?

Mr. *Garraw*.—I submit it is evidence.

Mr. *Erskine*.—I submit to the Court, that it is not evidence; I shall not argue it.

Mr. *Garraw*.—Nor shall I.

Lord Chief Justice *Eyre*.—I consider that point to have been determined by the majority of the judges.

Mr. *Garraw*.—Did you know of any association at Lambeth?—I have heard of it.

Did you hear of that from Franklow?—I never saw him, till I saw him in the privy council chamber.

Did you ever hear of it, from any member of that association?—I remember something was mentioned of it soon after I went to the division; something was said about it, but by whom I cannot tell.

What was stated at that meeting of the division, at which there was conversation about Franklow's association?—I understood that there was a meeting, known by the name of the Lambeth Loyal Association; that was all I understood about it.

Did you hear at that, or any other meeting of the society, of what number that meeting at Franklow's was composed; how many persons attended it?—I never knew how many persons attended it; I understood that the number, when it was completed, was to be sixty.

2 X



You understood, at that meeting of the division, that it was to be sixty, when full?—Yes.

For what purpose did that association meet?—That I cannot tell, for I was never there.

For what purpose was it stated, in the London Corresponding Society, at the division meeting, that they met?—I never heard any thing stated of what was the purpose of their meeting.

Did you ever hear that that society, or any other division of the London Corresponding Society, had arms?—I never heard any thing mentioned of that society, but what I have just now stated.

What was this association at Franklow's for?—I could not tell, for nothing of the kind was ever mentioned.

Did you hear from any body, in any of the meetings of the Corresponding Society, in what dress those persons who attended Franklow's meeting assembled?—No; I did not hear.

Do you know in what dress they assembled?—They had a blue coat, and red collar; I think I saw Franklow in his dress.

Was there any other part of the dress that was regimental, or was like regimental?—White waistcoat and breeches.

In that dress you saw Franklow himself?—Yes, once.

Lord Chief Justice *Eyre*.—When was it you saw Franklow so dressed?—It was at the dinner at the Globe-tavern.

Mr. *Garraw*.—When was that dinner?—On the 20th of January.

The anniversary dinner?—Yes.

At that dinner Franklow appeared in the dress that you have mentioned?—Yes.

Do you know of any meeting of any number of persons of the Corresponding Society, at the Three Tuns, at Snow-hill?—The division 22 used to meet there.

Do you know of any proposal in the Corresponding Society, for instructing that division in the use of arms?—No; I cannot say I recollect any.

Do you know of any meeting of any number of persons, for that purpose, at the Three Tuns, on Snow-hill, to the number of sixteen, or thereabouts?—Yes; I recollect there was one evening about sixteen persons met.

Were you one?—I was.

What was the purpose of that meeting?—I had spoke to several of the members myself, before that meeting took place, for them to meet there; and, if they thought proper, to form an association like that of the Lambeth Association, but no person would.

No person would agree to that proposal?—No.

Were those sixteen members of the division No. 22?—I do not know what divisions they were members of; they were of several divisions, I believe.

When was it that that meeting was held at the Three Tuns, Snow-hill?—I can not recollect when it was.

Before or after the anniversary dinner?—Before that a long while.

In the London Corresponding Society was there any committee, which was called the secret committee, for dispatch of business?—I understood there was.

Did you understand, from any of the members of the society, that there was?—Yes.

Lord Chief Justice *Eyre*.—Sixteen people met; what was done there?—Nothing at all.

Mr. *Garraw*.—At that meeting, where sixteen were present, what was proposed by any body?—I only proposed the forming an association similar to that of Franklow's, as I mentioned, and no person there would join in it.

In what manner was the secret committee of the society chosen?—I cannot tell in what manner they were chosen; I only heard it in the division.

Did you, in that division, hear of the appointment of any secret committee, which was afterwards dissolved?—This was the same committee, the secret committee, that I heard mention of in the division.

Was that secret committee supplied by any new committee?—I understood it was; but that committee that was dissolved had full powers to choose another.

What was the reason, as it was stated in the division meetings, for dissolving that secret committee which had existed, and giving full powers to that secret committee to choose a new one?—It was thought that some person had given information of that committee having been chosen.

Was that person who was suspected, a member of the society?—He was a member, I understood, of the general committee.

What was his name?—Lynam.

Did you ever know who the persons were that constituted that new committee?—The persons that they chose on the committee there, were five persons; I do not know that I could recollect all their names.

Should you know their names, if they were stated to you?—I think I should.

Do you know John Martin, an attorney?—Yes.

Was he one?—Yes.

Do you know John Thelwall?—Yes.

Was he one?—Yes.

Do you know Baxter?—Yes, he was one.

Moore?—He was one.

Do you know a person of the name of Hodgson, and another of the name of Lovett?—I cannot be certain which of those two it was.

You know those two persons?—I know them both.

Was one or the other a member of this secret committee?—He was.

Where did this secret committee meet, as you learned in the meetings of the Corresponding Society?—I do not know.

At what sort of places did they meet; at the ordinary places of meeting of the general

meetings of the society, or in private houses?  
—I do not know.

Do not you know, from the information of the society?—I understood that they met at their own houses.

Did you understand that in the society?—No; I was told by a person not in the society.

What was the office of this secret committee; what had they to do?—To receive any letters that were sent.

And what were they to do with them, when they had received them?—That was all left to them; it was kept a secret from the society.

Did they communicate to the society, occasionally such correspondence as came to them?—At times they used to have letters read in the division.

Was it left to them to use their discretion about that?—I understood so.

Were you at any time a delegate of the society?—I was.

In the character of a delegate were you a member of the general committee?—I attended the general committee about six times.

You were not a member of the secret committee?—No.

Do I understand you right, that the correspondence was committed to the secret committee, and left with them, whether it should be brought before the general committee, or the society at large at their discretion?—It is impossible for me to answer that, because it all remained a secret to themselves.

Have you any reason to know from any of the proceedings of the society, that correspondences which did find their way to the secret committee, were not communicated either to the general committee, or to the society at large?—That I cannot tell.

Where did the general committee at first meet?—In Compton-street.

At number 3, the coffee room?—I think it was number three.

Were you ever present at Compton-street? Sometimes I have been there.

How often might you be there?—Twice.

Was it any part of the business of the general committee of delegates that met at Compton-street to receive the return of new members?—Always from every delegate.

Did it happen that at all those meetings you attended, there were returns of new members?—When a delegate attended, the returns were made at a general committee.

From Compton-street, were the meetings of the committee transferred to any other place?—To Beaufort-buildings.

To whose house?—Mr. Thelwall's.

No. 2, Beaufort-buildings?—Yes.

Do you recollect at the first meeting of the committee which you attended, any deputation attending to report from any other society?—No, I cannot recollect that.

Do you know from any thing that passed at any of the meetings of this society at large,

that your society was in correspondence, and co-operation with the Constitutional Society?

—No, not at that time; I understood on the Thursday night following, that a committee of correspondence was appointed by the Constitutional Society of six persons, and I also understood, that a deputation had been appointed to the Society for Constitutional Information. I understood that the Corresponding Society deputed five persons to attend a meeting of the Constitutional Society; before I went to the committee, there was nothing mentioned of it the first night as I understood—On the second night I understood they had appointed a committee of six persons, and there were only five persons of the Corresponding Society chose for the deputation, and then they chose another person to add to them, to make up the number.

Were you present at any time, when the deputation from your society reported, that the Constitutional Society appointed six persons, the Corresponding having appointed five, they chose one more after, to make up the six, then the twelve I suppose met?—Yes.

Were you present at any time when a report was made by any of the members of that committee of conference to the society at large, or the general committee? You have said you know Hodgson, Lovett, Thelwall, Baxter, and Moore?—Yes.

Were they the persons who were deputed from your society, to correspond with the Constitutional Society?—I was not present, when the deputation was appointed.

Do you recollect any debate with respect to yourself, and your age, at the time that this business of delegates was considered?—Yes, I recollect it.

Who were the persons, do you recollect, that took part in that debate?—Several persons spoke, and most of them were strangers to me at that time, and I did not know who they were, Mr. Thelwall was one that spoke.

Was Baxter one who spoke in that debate?—At the committee, not in the division.

Do you remember being at the general committee, when a business respecting a gentleman of the name of Eaton was taken into consideration?—I remember there was a debate one night, respecting a medal that had been struck, that was to be presented to the jurymen that acquitted Mr. Eaton.\*

Was the medal to be presented to any other persons except the jury who had acquitted Mr. Eaton?—I do not know, I only understood to the twelve jurymen who had acquitted him.

Acquitted him, upon what occasion?—

\* See his trials for seditious libels, *ante*, Vol. 22, pp. 753, 785, and Vol. 23, p. 1013; see also his trial for publishing a blasphemous pamphlet, intituled "Ecce Homo," A. D. 1812, *post*.



When he was tried at the bar for a libel I think, and was found not guilty.

Do you remember any thing of a meeting at Chalk Farm, in the neighbourhood of this town?—Yes.

What were the proceedings in the society as far as came to your knowledge, preparatory to that meeting?—I do not know, I was only appointed to the committee one night before that, and that was the night when the debate took place respecting myself, and I heard nothing at all but respecting that.

Were you present at the meeting at Chalk Farm?—I was there.

Where did you first go to—did you go to Chalk Farm, or any other place first?—I went to Store-street, Tottenham Court Road.

And from thence to what place?—To Chalk Farm.

At what time did you arrive at Chalk Farm?—I cannot recollect what time, it was in the afternoon.

Was that meeting at Chalk Farm, one that had been appointed in consequence of any proceedings of the Corresponding Society?—I do not know.

You did not know before you went there?—No.

You went there a delegate of the Corresponding Society, if I understand you right?—Yes, I had been made a delegate only one week before.

Had you any card, or ticket for your admission to Chalk Farm?—Yes.

Where did you procure that?—I had it of the committee of the Corresponding Society.

When, and where procured?—By the committee of the Corresponding Society at Compton-street.

When?—On the Thursday night preceding the meeting at Chalk Farm.

What was the occasion of your going to Store-street, rather than Chalk Farm at first?—I understood there was a room engaged in Store-street, it was advertised that the meeting was to be there.

There you went with your ticket as I understand you, previously procured from the committee?—Yes.

When you came to Store-street, what led you to Chalk Farm?—I understood justice Addington had been there, and forbid the man to let us have the room.

Then you went to Chalk Farm?—Yes.

What number of persons might there be assembled at Chalk Farm?—I suppose upwards of two thousand.

Was there any ceremony upon your introduction there?—There was a person stood at the door, just to take the ticket.

*One of the Jury.*—Was it an enclosure, or what?—It was a kind of trap-bail green, before a long room.

*Mr. Garrow.*—Those tickets which the person at the door was to take— which you had received of the Corresponding right?—Yes.

What was done with the ticket delivered to the person at the door?—They tore one half off, the other half you kept yourself.

What were you to do with the other half?—To put the other half in your hat.

When you were admitted, be so good as state the proceedings that took place, who were the persons that were there, and what passed?—There were some letters read.

Did you find there any persons of the Corresponding Society?—Yes, several persons there.

Any that you knew, or that you have named?—Yes, there were Moore, Hodgson, and Thelwall.

Was there any person who took the chair at that meeting?—Yes, John Lovett.

Name some more that were there of the Corresponding Society, with whom you were acquainted?—Richter was there, and there were most of the members of the committee.

Do you know Mr. Hardy?—Yes.

Was he there?—I do not know whether he was there or not, for I was up in the long room all the time.

After you were admitted into the ground, did any person take the chair?—Mr. Lovett took the chair soon after I was in the ground; there were two ladies I was acquainted with; we went up into the long room, and were locked in, therefore I could not see so well.

Did you hear what was read, or said, so as to be able to give any account of it, if not I will not pursue it?—I cannot give any account of what was said.

Were you present afterwards at any meeting of the general committee, or any other committee of the London Corresponding Society at which the proceedings at Chalk Farm were reported?—I do not recollect ever hearing the proceedings at Chalk Farm being reported at a committee.

Nor in the society?—No, because most of the members heard it there.

Do you know a place called Robins's Coffee-house, in Shire-lane?—Yes.

Is that a place at which any of the meetings of the society were held?—Division, No. 29, met there.

Did you use to attend the meetings of that division occasionally?—I did, I was a member of that division.

Be so good as to look at this paper, and tell me whether you ever saw any of these sort of papers distributed at Robins's Coffee-house, and were any of them delivered to you by any of the persons you have named?—I saw some, but not so large as this, and of a different date.

Was it the same subject, did it contain the same expressions?

*Mr. Erskine.*—I must object to that question.

*Mr. Garrow.*—I must insist upon the question.

*ag.*—I will state my objection; he asked whether he saw that similar to it?

Mr. Garrow.—That is not the question, nor any thing like it.

Mr. Erskine.—State the question then.

Mr. Garrow.—The question I put was this; whether you had received a similar paper to that at Robins's Coffee-house? To which you answer, not of that size?—Not at Robins's Coffee-house.

Did you ever receive a paper of that sort any where?—Of a different date.

Of the same contents as that paper?—Yes, one; but not so large.

Where did you receive that, and from whom?—From a person of the name of Baxter.

From that Baxter whom you have named, as a member of the London Corresponding Society?

Mr. Erskine.—The witness says, the paper delivered by Baxter was not the same paper as this; and that it was of a different date.—Does your lordship think the witness's saying, he believes the contents of this to be the same, makes this paper evidence?

Mr. Garrow.—I submit that, if I propose to read a passage from Locke, and I show the witness an octavo edition of Locke, and ask him whether he had read the passage in a duodecimo edition of the same author, that it is sufficient evidence, if he has, to let me in to read it.

Lord Chief Justice Eyre. In order to come at that evidence, you would be obliged to lay before the Court some evidence, that this which you offered was an edition of Mr. Locke's work.—The question is, whether you have gone far enough yet?

Mr. Erskine.—Exactly so.

Mr. Garrow.—I will ask a few more questions.—You say this paper is not of the same size as the paper you received from Baxter?—No.

What is the date of this paper?—Tuesday, the first of April.

Did you, at any time, receive a paper from Baxter, of the same contents as that, except the date of the 80th of January, upon a paper of a different size?

Mr. Erskine.—What did you do with that paper?—It was destroyed before I was taken into custody.

Lord Chief Justice Eyre.—That paper being destroyed, the witness will give such account of it as he can; he may either refresh his memory by looking at this paper, or, if he can venture to say, that this contains in it the substance of the other, it may be received, upon that account, as the best evidence; either way, it comes to the same thing, with regard to you, Mr. Erskine, and therefore, I think it is not worth mootng.

Mr. Erskine.—The paper was fabricated by the spies who support the prosecution.

Mr. Attorney General.—You shall not say that, till you prove it.

Mr. Erskine.—I shall prove it.

Mr. Attorney General.—Till you prove that,

you ought not to say it; it is a charge that ought not to be made.

Lord Chief Justice Eyre.—If there is any point between you which should be heard, the appeal, to be sure, must be made to the Court.

Mr. Garrow.—I wish to God it was; we should save much time and trouble.

Lord Chief Justice Eyre.—A little indulgence, on both sides, would save much time and trouble.

Mr. Attorney General.—When a paper is produced, which your lordships hold to be legal evidence to be read, it must not, and shall not be stated in this court, unless it is proved, that the paper is fabricated by the spies who carry on the prosecution.

Lord Chief Justice Eyre.—I hope nothing of that kind has been said, for it was an improper thing to be said; and, if it dropt from any body, it was an inadvertent thing.

For

The Benefit of JOHN BULL.

At the

FEDERATION THEATRE, in EQUALITY-SQUARE,  
On Thursday, the 1st of April, 1791.

Will be performed,

A new and entertaining Farce, called  
LA GUILLOTINE;

OR,

GEORGE'S HEAD IN THE BASKET!

Dramatis Personæ.

Numpy the Third, by Mr. GWELP,  
(Being the last time of his appearing in that character)

Prince of Leeks, by Mr. GWELP, junior.

Duke of Dice, by Mr. FREDDY,  
(from Osnaburgh.)

Duke of Jordan, by Mr. WILLIAM HENRY  
FLOGGER (from the Creolian Theatre.)

Uncle Toby, Mr. RICHMOND.

Grand Inquisitor, Mr. PENSIONER REEVES.

Don Quixote, Knight of the Dagger,

By Mr. EDMUND CALUMNY.

And Chancellor of the Exchequer, by Mr.  
BILLY TAXLIGHT.

Municipal Officers, National Guards, &c.

By Citizens XOF, NADIREHS, YERG, ENIKSRE;  
&c.

Banditti, Assassins, Cut Throats, and Whole-  
sale Dealers in Blood, by THE EMPRESS OF  
RUFFIANS, the EMPEROR of HARM-ANY,  
THING OF PRUSSIA, PRINCE OF S. CASH-  
HELL, &c.

Between the Acts,

A new Song, called "Twenty more, kill them!"

By BORADIL BRUNSWICK.

Tight Rope Dancing, from the Lamp-post,  
By Messrs. CANTERBURY, YORK, DURHAM, &c.

In the Course of the Evening will be sung,  
in Full Chorus,

CA IRA.

- AND

BOB SHAVE GREAT GEORGE OUR —!



The whole to conclude with  
A GRAND DECAPITATION

OF

PLACEMEN, PENSIONERS AND GERMAN LEECHES.

Admittance, Three-pence each Person.

*Vive la Liberté! Vive la République!*

Mr. *Garrow*.—You say you received one of these papers, of a different date?—Yes; dated the 30th of January.

Was that the 30th of January preceding?—Yes.

At what time did you receive the paper you had?—I do not recollect when it was; it was some time ago.

Where did you receive it?—I received it from *Baxter*, about three months before January.

Three months before January?—It was in October or November, I think, I received it.

Then, supposing it to have been for some exhibition, it was delivered to you three months before the date, at which the thing was to take place?—I rather think it was three months, or thereabouts.

After the meeting at *Chalk-farm*, did you go to *Compton-street*?—I did, in the evening.

What connexion had the place in *Compton-street* with the society?—It was where the division used to meet at the coffee-room.

Did you sup there?—I did.

How late did you stay?—Not very late; I went away about eleven o'clock.

Who were the persons that were present?—A great number of persons were present.

Were they members?—I understood most were that came from *Chalk-farm*.

Was Mr. *Thelwall* one?—He was.

Did you, in any of the meetings of the society, or its committees, receive any information with respect to arming, in any way, except those that you have told us about pikes, and *Franklow's* association?—Never; not in any of the divisions.

Had you from any of the members of the society?—I never had.

Do you know a person of the name of *Ashly*?—I do.

Was he a member of either of the societies?—He was.

Had you any information from *Ashly*, about arming with pikes?—I never had.

Do you know a person of the name of *Joyce*?—I have seen him two or three times.

Do you remember any meeting at the *Crown and Anchor*, upon the 2nd of May, in the present year?—I was there.

In what manner were you admitted?—By a ticket.

By whom was that ticket furnished to you?—Mr. *Joyce*.

Who called him out of the room to give you a ticket?—Mr. *Thelwall*.

Lord Chief Justice *Eyre*.—Was that a dinner?—The anniversary dinner of the Constitutional Society.

You were present at the dinner at the *Globe* tavern likewise?—Yes.

Do you remember any printed paper being distributed at that dinner, at the *Globe* tavern?—After dinner the address that had been read in the morning, was printed, and distributed about.

Where had that address been read in the morning?—At the *Globe* tavern, before dinner.

After dinner that was distributed about, and read?—Not read after dinner; it had been read before dinner.

Was there any conversation at that meeting, with respect to any troops? any *Hessian* troops, for instance?—I do not recollect any.

I pass that, and go to the dinner, on the 2nd of May, at the *Crown and Anchor*; give us some account of the manner in which that festival was conducted; before I go to that, I would just ask you as to the dinner at the *Globe* tavern; you do not recollect the circumstance of any paper, respecting the *Hessian* troops, there, do you?—I do not recollect any.

Do you recollect any paper that respected the different parties, as they are called, in this country; the *Ins* and *Outs*, as they are called there?—Not there.

Where then?—I saw one of those papers at the *Three Tuns*, on *Snow-hill*.

At a division meeting?—Yes.

When was that?—I do not recollect when it was.

Before or after the 20th of January?—I think it was after the 20th of January.

You were not present at *Robins's* Coffee-house, when Mr. *Yorke* made a speech there?—I was not.

Do you know a person of the name of *Hodgson*?—*Hodgson*, the author, I know.

Did you ever receive any printed paper from *Hodgson*, the printer, in *Bell-yard*, or *Lovett's*?—No; I never did.

Have you been present, at any time, at Mr. *Thelwall's* lecture, in *Beaufort Buildings*?—Yes; I have been.

Was it permitted to any body to take notes of his lecture?—I do not know.

Did it ever happen to you to be present, when any persons that were doing so, were interrupted?—No; I never was.

You have told us of your application to Mr. *Hardy*, on the subject of pikes; what money was to be paid down for those pikes?—One shilling.

What was that to include?—To be sent to *Sheffield* for the blade.

When the blades were finished, what was to be done then?—Any person might put in the shafts that wanted them.

Do you know a person of the name of *Gosling*?—Yes; I do know him.

And another person of the name of *Hillier*?—Yes.

Had you any conversation. — any instructions from *Geal*

ject of pikes?---No; I never had instructions from Gosling.

Was he a member of the society?---I believe he was; Gosling and Hillier came to my father's house on the Monday Hardy was taken into custody.

Was any meeting appointed to take place before, respecting pikes?---It was appointed for the Friday before Mr. Hardy was taken up; it was afterwards postponed for another week.

What was the purpose of that meeting that was to have been held on the Friday?---As many persons as chose were to have put down their money for pikes.

Where was that meeting to have been held?---In Green Arbour court.

Was that one of the houses where the meetings of the divisions had been held?---They had been held there; but it was to be a general meeting then.

That meeting was postponed, and, in the interim, on the Monday, they came to you?---Yes.

Was it before you knew of Hardy's being apprehended, or afterwards, that they came to you?---They came to me before I knew Mr. Hardy was apprehended; for while they were in the house, I was informed of it by a person who came there.

What was the sum to be deposited by each member?---One shilling.

What was to be furnished for that?---A blade, and nothing else.

Where were they to procure the residue to make the pike an effectual instrument?---They were to get that where they thought proper.

While they were with you, information came that Mr. Hardy was apprehended---Yes.

What sort of wood were the shafts to be made of?---I do not know; fir was recommended in the letter, I think.

In consequence of that recommendation, were any others procured?---Yes, I had one.

Where did you get that?---I made that myself.

Was any observation made upon it?---Not that I recollect.

We saw one here just now, in which the blade was fixed to the shaft; was yours of that construction?---No.

Look at that; is that the shaft of yours?---Yes.

The shaft only?---The shaft only.

Is the blade there?---No, the blade was made to screw into the top.

What is become of the blade of your's?---Destroyed.

When?---Before I was taken into custody.

How long before?---On the Wednesday before.

Was it before or after you were informed that Hardy was taken into

How happened that to be destroyed? by whose advice?---By nobody's.

Why did you destroy it?---Because I was afraid of its being found upon me.

Do you know of any other representation by magic lantern, or other, that was used as connected with this subject?---I had a magic lantern of my own, which I produced to show Mr. Gosling.

You mean Gosling one of the members?---Yes.

Was there any connexion between that entertaining apparatus, and the objects of your society?---No.

What was it to represent?---It was the property of Mons. Chauvelin; there was the destruction of the Bastille and beheading of the governor painted on it.

Was that your property?---Yes, it is in the messenger's house now.

You said you knew a person of the name of Hillier?---Yes.

Do you know whether he had any pike?---I understood he had.

Was that of the same construction as your's or of a different construction?---It was of a different one.

Was he one of the persons at your house to whom you showed your pike the day of Hardy's apprehension?---He was.

Do you know where Hillier's pike had been constructed?---I do not.

*John Edwards* cross-examined by Mr. *Erskine*.

How long before you were apprehended were you a member of this Corresponding Society?---I became a member of the Corresponding Society last July was a twelvemonth.

You said you made a pike for yourself; of what trade are you?---A silversmith.

When did you make that pike for yourself?---I think it was in March.

What year?---1794.

How long had you been in the society at the time you made that pike?---From July 1793.

For what purpose did you make it?---I had heard a person of the name of Yorke that had just mentioned, one night in company where I was, after one of the divisions broke up at Robins's coffee-house, that they had pikes at Sheffield, and I made that.

But hearing that there were pikes at Sheffield, why should that induce you to make a pike for yourself; you must have had some motive in your own mind for it?---I understood some of the members were providing themselves with arms, and I made that for myself.

For what purpose?---In case there should be any illegal dispersion of the meetings.

Mr. *Erskine*.---Had you heard of any threats having been made use of at Sheffield?---No, I had not; but it was just at the time the Hessian troops were landed without the consent of the parliament.

You have the misfortune to be in the



custody of a messenger, but it does not follow that you have been guilty of any offence?--- That should be the case, or I should not have been taken up by a warrant for treasonable practices.

Had you any intention of making use of that pike against the government of the country?---Not against the government of the country.

No such intention at all?---None.

When you went to Mr. Hardy, what did you go for?---I asked him if he was going to send to Sheffield, and would inclose a few lines for me to some person at Sheffield, that could forge the blades for some pikes, that several members of the society wished to have them.

Did you speak to any members of the society who wanted them?---Not before.

Did you, after that, speak to some members of the society who did want them?---Several spoke to me about them.

Did you understand them, that they wanted them for the same reason as you wanted them?---I understood so.

From any thing that passed between you and any of the members of the London Corresponding Society, for whom you were disposed through Mr. Hardy's assistance, to get directions to persons at Sheffield, had you any reason to believe that they wanted the pikes for a rebellion against the government and magistracy of the land?---Not for a rebellion against the government; not against any legal power that might be sent to disperse them.

But if you were attacked without the authority which the law confers upon magistrates, you thought you had a right to defend yourselves?---Yes, just so.

You thought very right; you appear to have given a very fair account; I believe that in consequence of that you made a proposition in one of the divisions where sixteen persons were present?---That was long before I had the direction from Mr. Hardy.

What was the reason of your making the proposition at that time?---Because there had been great opposition shown to the meetings before that time.

Had any insults been offered to any of the members?---There was; at a division I was present at in Rotherhithe, two of the police officers came in, they wanted to know what they wanted; they said they came to see if there were any men fit for his majesty's service.

Were you at that time doing any thing, or were the people who were there, doing any thing that your own consciences suggested to you to be wrong?

Mr. *Attorney General*.---Is that a question to be asked?

Mr. *Erskine*.---I say it is, subject to his lordship's opinion.

Mr. *Attorney General*.---Be so good to say why?

Mr. *Erskine*.---I should be very glad to hear why it is not.

Mr. *Attorney General*.---They may do acts their own consciences may think right; but that does not make them legal.

Mr. *Erskine*.---That is the reason I shall put the question that way; a man may know what his conscience is, though he may not know what the law is.

Lord Chief Justice *Eyre*.---Being upon a cross-examination, I think he may be asked whether he at the time apprehended that the thing which he was doing was lawful or unlawful---whether it was so, or not, will not depend upon his apprehension, but it may go to the general evidence he gives---it may operate one way or other---if he has done an illegal thing, but innocently, if he is brought as a witness, he may be asked to that; what the effect of it will be, I do not know.

*Edwards*.---At the very time that the people came in to disperse us, we were reading the address from Mr. Pitt and the duke of Richmond at the Thatched-house tavern.

Lord Chief Justice *Eyre*.---Was it more or less legal upon that account?

Mr. *Erskine*.---Certainly not.

Mr. *Attorney General*.---So far, that if the conscience of the witness is to decide it, I cannot help thinking it may be more or less legal.

Mr. *Erskine*.---I wish it to be understood I am no advocate for the conscience of the duke of Richmond nor Mr. Pitt.

Lord Chief Justice *Eyre*.---It is certainly true; but this is rather too grave an occasion for such an observation.

Mr. *Attorney General*.---It is not a proper occasion for this frippery.

Mr. *Erskine*.---I say that is not a proper expression.

Mr. *Attorney General*.---I will repeat it.

Mr. *Erskine*.---You will not repeat it any where else.

Lord Chief Justice *Eyre*.---The gentlemen I hope will recollect that they are upon a solemn trial.

Mr. *Erskine*.---I think it is really hard upon me upon this solemn trial, that I should be eternally assailed by these gentlemen, when I have the arduous task of extracting the truth from these witnesses.

Lord Chief Justice *Eyre*.---If any person were disposed (which I dare say no one is) to give you any interruption, it would be my duty to preserve order, and take care you should be permitted to go on in your business without interruption; but it is impossible the cause can go on, unless the gentlemen at the bar will a little understand one another, and by mutual forbearance, assist one another; you are a little too apt to break on---I think there has been a little---sometimes to observe more the occasion calls for.

Mr. *Attorney General*.---I am from now, I am

Mr. *Erskine*.—I will repeat the question, if I have your lordship's liberty to put it, the objection being over-ruled.---At the time you were opposed in this manner, were you doing any thing which in your apprehension, or your mind, was wrong?--I was not.

From any thing that you saw or heard from those persons with whom you associated, did you collect that they intended to make a different use of the pikes than that for which you had made your own?--I did not.

You said you made a proposition which was negatived by the committee, or whoever it was, when sixteen persons were present; what was the proposition you made?--It was about forming another society upon the same principle as that at Lambeth, but no person would second it.

When you made that proposition to have a society upon the same footing as that at Lambeth, what did you conceive that society to be?--It bore the name of the Loyal Lambeth Association, that was the same as that I meant to form in case there should be any illegal dispersion of the meetings.

If you had understood that Lambeth Association to have been of persons disposed to oppose the magistracy of the country, should you have made that proposition?--I should not.

And yet, though you made that proposition, it was not assented to?--No.

Do you remember the prisoner saying any thing about that?--No; I do not remember his saying any thing of it.

Have you seen him at any of those meetings?--Yes, at my division several times.

How did he deport himself?--In a very quiet manner; I never heard him speak in any of the divisions, not once.

Did he appear to be a man of a turbulent disposition?--No, quite a different man.

Do you recollect any expressions he has used in any of the meetings that led you to think him a quiet, well-meaning man?--I always understood he was so; I never heard him make use of an improper expression since I was in the society.

Did you ever hear Mr. Hardy make any proposition for arms or pikes?--Never.

Were you ever present when any proposition of that sort was made, when he assented to it, or encouraged it?--I never was present and heard any thing of the kind mentioned, but what was mentioned by me in the shop, and no person was present but Mr. Hardy and myself.

Did any thing more pass between Mr. Hardy and you than what you have mentioned here?--No more.

Did you tell Mr. Hardy that you had made a pike?--I did.

Did you tell him for what purpose you had made it?--I did not tell him for what purpose.

He knew you were a member of the society?--Yes.

WIL. BENT

This bill that has been talked of, upon what occasion did Baxter give it you?--He gave it to two or three persons; I asked him to give me one.

Why did you ask to have a thing of that sort, so perfectly indecent, absurd, and ridiculous?

Lord Chief Justice *Eyre*.--If you had added infamous, it would have been quite proper--it should not be mentioned without some term that strongly expresses detestation--and ridiculous is not enough; I am sure you think so.

Mr. *Erskine*.--I certainly do think so.--Give me leave to ask, how you came to ask for a bill of that description?--I saw it at a distance, and could not read it; I wished to satisfy my curiosity, and asked Baxter to give me one.

His lordship having given a proper epithet to this bill, as a detestable thing, did you ever hear any thing pass from any member of the society, and more especially from the prisoner, which leads you to conclude that he would approve of a thing of that nature?--No.

Did you ever hear any expression pass in the course of their meetings that would lead you to believe they would think otherwise of the bill than his lordship and I have now expressed our sentiments upon it?--I heard another person on the same night say it was an infamous thing, and too bad to be countenanced; it was only given to two or three.

Have you any reason to believe the prisoner was acquainted with, connected with, or had seen that bill?--I do not believe he had ever seen it; I have no reason to know that he had ever seen it.

From what you had an opportunity of observing of the prisoner at the bar, do you believe he would have encouraged a bill of that description?--I do not believe any such thing.

*John Edwards* re-examined by Mr. *Garraw*.

With respect to this infamous bill, which was considered so by those who received it; you received it in a division meeting?--Not at a division meeting.

You received it from a member of the division?--Not at that division.

From a member of the Corresponding Society, Baxter?--It was.

Three months before the date mentioned in it, the 30th of January?--Near three months.

Now with respect to its absurdity and folly, having seen two or three delivered to different persons, you asked for one?--I did.

That was not precisely the same bill that has been delivered to-day?--Not the same; not so large.

This is a subsequent one, larger, and of another date?--It is.

That purporting to be an entertainment on the 30th of January--this purporting to be on the first of April succeeding?--It is.

You did not form any pike for yourself,

2 Y



until after you had heard from Mr. Yorke, that the society at Sheffield were preparing pikes for themselves?—I heard Mr. Yorke mention one night at the division, that the people at Sheffield had got pikes.

Was it Mr. Yorke's intimation of what had passed at Sheffield, that led you to apply to Mr. Hardy for a direction to procure pike blades from that town?—No, I went of my own accord.

What induced you to go to Mr. Hardy for a direction to a person at Sheffield, who would forge the blades for some pikes?—Because I understood Mr. Hardy knew who were the persons, or the secretary of the society at Sheffield would know who were the persons to whom I could send.

If I understand you right, the particular occasion upon which these pikes were to be made, was upon the landing of Hessian troops without the consent of parliament?—Not upon that occasion, I said I made it just at the time that the Hessian troops were landed without consent of parliament.

Then your making pikes had not any relation, I take for granted, to the landing of the Hessian troops without consent of parliament; I mistook you when I took it so?—Not in consequence of their being landed.

Nor at all connected with that?—No; I only said I made it at that time.

Did you know that the Sheffield Society, which was in correspondence with your society, had published a resolution, "that the landing of Hessian troops in this country (a ferocious and unprincipled horde of butchers) without consent of parliament, has a suspicious and alarming appearance; is contrary to the spirit of our constitution, and deserving of the marked indignation of every Englishman; that it is high time to be upon our guard, since these armed monsters may in a moment be let loose upon us"?—I do not recollect that.

Do you venture to say that you never heard of that at that time from Mr. Yorke?—Not at that time.

How soon did you hear of that resolution from the Sheffield Society?—Not for some time after.

Upon your oath, was your pike completed before you heard of it in your division meetings?—No, it was not.

Upon your oath will you venture to say you began to make it before that communication from Sheffield was made to your society?—No; I had not begun it.

Then I believe I was right in what I took down, that your making that pike was because Hessian troops were landed without the consent of parliament?—I did not make it on that account, but I made it just at the time.

Did you make it soon after Yorke had communicated that the Sheffield Society had come to spirited resolutions upon landing those troops?—I never heard him say anything upon that subject.

Where did you hear it?—I learnt it from a book that I purchased at Eaton's shop.

At Eaton's shop in Newgate-street, the Cock and Swine?—Yes.

Was Eaton a member of one of your societies?—He was.

This was to prevent any illegal dispersion of your society?—It was.

How long had your society met in general meetings and in secret committees without the use of pikes, or the fabrication of any, antecedent to the resolutions at Sheffield as to landing Hessian troops?—I suppose for two years.

Had you met with any interruption whatever in your meetings, except that which you have named of two police officers, coming into the public-house, and stating that they wanted to see if there were any men fit to serve his majesty?—A division in Bunhill-row was often interrupted by the police officers.

Had you met with any interruption in your general meetings, committees, or secret committees, except from peace officers?—No.

*Samuel Williams sworn.*—Examined by Mr. Bower.

What are you?—A gun engraver.

Do you know the prisoner at the bar, Mr. Hardy?—Yes, I do.

Do you know a person of the name of Franklow?—I do.

Where did you first meet with Franklow?—At his own house.

Did you ever see him at the prisoner's?—No.

Were Hardy and Franklow together at any time when you saw them?—Never.

Was Franklow a member of the London Corresponding Society, or the Society for Constitutional Information?—Of the London Corresponding Society.

Did Franklow ever apply to you to make any arms for him?—Yes.

About what time?—I cannot be positive to the time.

Were you a member of the London Corresponding Society?—Yes.

Upon what occasion did you become a member of it?—The first inducement I had of being a member of the London Corresponding Society, was by seeing an advertisement in the Daily Advertiser from the London Corresponding Society.

About what time?—In the last year; about the middle of the year.

You became a member, in what manner?—I saw an advertisement in the Daily Advertiser of a general meeting to be held in the Strand; I saw that tickets of admission were to be had of Thomas Hardy, secretary to the Corresponding Society, No. 9, Piccadilly. I went to him; he informed me that it was not customary to give tickets to any but such as were members of the society, which I told him I was not; we had some further conversation.



What was that farther conversation?—It was something concerning a reform in parliament; I cannot relate the conversation.

Do you mean to say the subject of the conversation you have described, was to state what the object of the society was?—It was for a reform in parliament.

Did Hardy tell you so?—Yes; he gave me one of the London Corresponding Society's addresses which they had published. I gave him an order for a pair of shoes; the next time I went to his house I had the shoes—I told him I was in the line of selling guns, if he knew any person that wanted such things, I should be obliged to him if he would recommend me; he told me he did not know any person, if he heard of any person he would let me know; the next time I went to his house, he told me to bring a gun and the price, which I did.

How long was that after you had first seen him?—About a fortnight or three weeks—I took a gun to him, which he sold.

On your account or his?—On my account. I gave him an order for a pair of boots, which he made me, and told me to bring two or three more guns, which he sold likewise, and one gun was in his house, which was never sold, which I never was paid for.

Do you know a person of the name of Spence?—I did, I saw him once.

Was he a member of the London Corresponding Society?—I never had any conversation with him in my life.

Where did he live?—In Little Turnstile, Holborn.

Did you ever see Franklow there?—I did.

Upon what occasion did you go to Spence's house?—To instruct persons in the manual exercise.

At whose request did you go to Spence's house?—At the request of Mr. Franklow.

How many persons did you see in Mr. Spence's house that were assembled for the purpose of learning the manual exercise?—Four or five.

Do you mean to say that you saw four or five at one time, or that four or five were all you saw, at all the times you were there?—I suppose there might be six or seven, at all the times I was there.

In what part of the house did they exercise?—In a room up stairs, I believe a two pair of stairs room, but I am not positive whether a one or two pair of stairs room; it was a small triangular room.

Forward or backward?—I believe, forward.

At what time?—Between the hours of eight and ten in the evening.

At what time of the year?—Going on towards Christmas.

It was of course dark then?—It was.

Did you exercise them by candle light in the room?—Yes.

Were there any shutters to the windows or curtains, or were the windows open?—I believe there were curtains, but I cannot be positive.

Was there any body else but yourself to exercise them?—No, there was not.

Did you act then as the person to teach them their exercise, serjeant or corporal, or whatever it might be?—I did.

What night in the week was it that you used to meet?—I believe it was on a Thursday night.

Who introduced you at first to the London Corresponding Society?—I told Mr. Hardy that I should be glad to become a member of the London Corresponding Society, but did not know any person to introduce me; he named several persons, but I did not know either of them; he said he would propose me; it was upon his proposition that I became a member of the London Corresponding Society.

Lord Chief Justice Eyre.—How soon after your first meeting Hardy, did you become a member?—It might be a fortnight or three weeks, I cannot be positive.

Mr. Bower.—Did you know any thing of a society called the Loyal Lambeth Association?—Yes, that was the association to which those people belonged.

Did you ever go to Lambeth to exercise them?—I went to Mr. Franklow's house.

Where did he live?—At No. 1, China Walk, Lambeth.

How did you find where his house was?—When I went to Mr. Hardy's, one night, he gave me Mr. Franklow's card, and told me, that he was going to raise an association, and wanted some person to supply them with arms.

How soon after you had been introduced to Hardy was that?—It might have been six weeks or two months, I cannot say.

In consequence of that, did you get a card or address from Hardy to Franklow?—I had a card.

When did you go to Franklow's house?—It was two or three nights after I was at Hardy's.

Did you find the same people there that you met at Spence's, or were they different people?—Different people.

What did you do when you went to Franklow's, as to the people you met there?—They were then reading over the articles.

What articles?—The articles of the Lambeth Association.

Do you happen to know whether the Lambeth Association was composed of inhabitants of Lambeth?—No, it was not.

What was the name they gave themselves?—The Loyal Lambeth Association.

It was not composed of inhabitants of Lambeth, you say?—Not entirely.

Who were inhabitants of Lambeth, that you knew of that association?—Franklow lived there?—Yes.

Who else do you know of that association, that were parishioners, or inhabitants of Lambeth?—I cannot say I know any, I did not know where the people lived.

How often might you attend at Franklow's for the purpose of disciplining these men?—



Mr. Franklow himself disciplined them at his own house.

Did you happen to know, by any means, how many there were of Lambeth people, that were in this Lambeth Association?—I do not know.

Do you happen to know, from Franklow, or any of them, whether they had applied to any magistrate, or had applied for any authority to hold this Loyal Lambeth Association?—They had not, to my knowledge.

How many muskets did you yourself supply for the use of this association?—Eleven.

By whose direction did you supply those eleven muskets?—Mr. Franklow's.

Who paid you for them?—Mr. Franklow.

For all of them?—For all but one.

What were the arms, guns, or what?—Muskets.

Had you any orders or intimation given to you, whether or not any more arms would be wanted for the use of that association?—There were to have been sixty.

Do you know for what purpose that Lambeth Association was formed?—According to the articles, it was in case ———

Look at these, and tell me whether those are the articles of their association?—Those were the articles.

*One of the Jury.*—Were these fuses?—They were all muskets.

*Mr. Bower.*—Were there any bayonets?—Muskets, with steel rammers, and bayonets complete.

[The Preamble to the Articles read.]

*" Rules, Articles and Regulations ; to be observed by the Members of the Loyal Lambeth Association. London : Printed for the Society, 1792.*

" Whereas the fear of invasion, and civil commotions, have alarmed several of the inhabitants of this parish and its vicinity, we have thought proper to form ourselves into a military association, to be distinguished by the name of the *Loyal Lambeth Association*, united for the defence of their country, lives and property ; and against all subverters, and levellers of peace and good order ; ever ready to step forward in the above case when called upon, within the parish of St. Mary's, Lambeth."

*Mr. Bower.*—Where did you say Spence's house was?—In Little Turnstile, Holborn.

That was the place where these associations, of the parish of Lambeth, met?—Part of them ; and part of them met at John Shelmerdine's.

Where is John Shelmerdine's?—Near the Borough, in Southwark.

Do you happen to know whether there was a single person, that was disciplined, either at Franklow's or Spence's, who was not a member of the London Corresponding Society?—I really cannot inform you.

Were all that you knew members of that society?—I never made that inquiry.

*Mr. Erskine.*—We wish to have the articles read.

*" Rules, Articles, &c.*

" ART. I. This association shall consist of one captain, one lieutenant, one ensign, a serjeant-major, three serjeants, three corporals, sixty rank and file, two drummers and fifers.

" ART. II. Every person proposed and recommended, shall be named a week previous to his introduction, and well known by the member who recommends him.

" ART. III. Every member shall pay weekly into the hands of the treasurer (chosen out of the association) the sum of one shilling and sixpence, for purchasing arms, and accoutrements, as likewise towards defraying the incidental expense of this association, the subscriptions to be lessened when the above articles are purchased.

" ART. IV. The officers are all elective quarterly, as likewise a committee of seven members, the committee to regulate the internal affairs of the association ; the serjeant-major and treasurer are not elective quarterly, but hold their office during pleasure of the members of this association, and at all times while in office, are members of the committee, over and above the seven members ballotted out of the association.

" ART. V. As the protection of public and private property is the object of this association, we hereby engage to step forth in case of fire, tumults, commotions, and riots, but not beyond the parish of St. Mary's, Lambeth.

" ART. VI. The uniforms of this association, is a blue coat lapelled, scarlet collar, plain gilt buttons, white waistcoat, nankeen breeches, white stockings, half-black garters, black stock, cocked hat and cockade.

" ART. VII. As the further object of this association, is the encouragement of its members in their different callings, it is therefore resolved, that such articles as are used by this association, to be had of its members, and when two or more members are of one profession to be equally divided.

" ART. VIII. That swords, epaulets, sashes, and swordknots ; be purchased out of the stock of the Association, for the use of officers.

" ART. IX. That this Association have four Quarterly Meetings, viz. the first Monday after the four regular quarters ; when the Officers and Committee, are to be chosen : Audit the Treasurer's accounts, and other necessary business.

" ART. X. As no Armourer is to be appointed to this Association, every member shall keep his own Piece, and Accoutrements clean.

" ART. XI. That the place of Meeting be in or near the Town of Lambeth, in as commodious a place as can be procured.

" ART. XII. That every member clear the book, once a month, on neglect to fine one Shilling, all fines whatever to be added to the joint stock of this Association."

"XIII. That Mr. *Franklow* is appointed Serjeant-Major of this Association, as likewise Treasurer and Secretary, whose duty is to instruct the members in the use of Arms, and military discipline, for which two-pence a week be paid him from each member (out of the subscription) while learning, to attend twice a week, Wednesday and Friday Evenings from seven to ten o'clock. As Treasurer he is to receive all subscriptions, and account with the Committee every fort-night, in order that they may issue such payments for Articles received in this Association; as Secretary, to keep the Muster-Roll and Book of this Association.

"The above ARTICLES, &c. were agreed to, and signed by the following Members;

"JOHN PHILIP FRANKLOW.

"JOHN SHELMERDINE.

"JOHN WILLIAMSON.

"JAMES DAVISON.

"SAMUEL WILLIAMS.

"Nov. 15th. 1793."

Mr. *Bower*.—This association was for the purpose of stepping forth in case of fire, tumults, commotions, and riots; but they were not to go beyond the parish of St. Mary's Lambeth. I asked you, before, whether any of those members, except Franklow that you knew, were inhabitants of the parish of Lambeth—you said not?—Not to my knowledge.

Did you know any of them?—I knew that some of them were not.

How came Spence's house, in Turnstile, Lincoln's-Inn-Fields, to be a place fixed upon for exercising the members of the Loyal Lambeth Association, who were not to go beyond the bounds of their own parish?—I can tell no otherwise, only, that they could not get any place else. It was thought proper, by Franklow, and some others, that as they could not get members fast enough, that the association should be divided into ten divisions; one division to be up at Spence's—another at John Shelmerdine's—another in Westminster, at Williamson's; where the others were to be I do not know.

Had you, at the time that you were supplying arms to this society, any conversations with them upon the subject of parliamentary reform; or did you hear any conversation among them respecting that?—Yes; there was conversation of that kind passed between them, more times than once, at the times of their meetings.

What was the subject of those conversations, or did those conversations respect at all the end of their association?—I cannot tell; I never minuted any thing down.

Can you tell the substance of any conversation they had upon the subject of parliamentary reform?—I can go no further than this, that I could collect so far as this, that if they could not get a reform of parliament without it, they would endeavour to have got it by the force of arms.

I ask you from the conversation of the members of that association that met—

Mr. *Gibbs*.—I object to this—I understand the Court has determined that any thing that any member of the Corresponding Society says, is evidence against Mr. Hardy; but I do not apprehend that the Court has determined that every thing said by the members of the Lambeth Association, whom the witness does not know to be members of the Corresponding Society is evidence; consequently the question put, of what this man has heard from any member of the Lambeth Association, unless he can fix that he heard it from some of those who compose the Corresponding Society, is not evidence.

Mr. *Bower*.—I understood you, that Hardy gave you the address of Franklow?—Yes; he gave me his card.

In consequence of which you went to Franklow's, and there met this society?—Yes.

Mr. *Bower*.—I conceive when I prove that a number of persons assemble together, under the directions of the prisoner, that I can give evidence of their conversation.

Lord Chief Justice *Eyre*.—The moment you have proved one of the terms of your proposition you are right; at the moment it is proved that this association of Franklow's was under the direction of the prisoner, undoubtedly every thing they do will be evidence against the prisoner; but I do not observe that the evidence goes farther than this—in the course of trade Williams buying shoes and boots of Hardy, Hardy recommends him to Franklow, in the way of his business, and there is nothing that I can discover, at present, to connect Franklow's transaction, with regard to this association, with Hardy, except so far as the members of it, can be traced to be members of the London Corresponding Society: you have examined with a view to that, and it appeared to me that that examination rather failed, for he did not undertake to know that any of those people were members of that society.

Mr. *Bower*.—I will see if I can get the facts a little more distinctly—was Franklow a member of the London Corresponding Society?—He was.

Did you know Shelmerdine?—Yes.

Was he a member?—He was.

Do you know John Williamson?—Yes; but I cannot say whether he was a member or not.

Do you know James Davison?—I never saw him but once.

Do you know whether he was a member of the Corresponding Society?—I cannot take upon me to say.

Lord Chief Justice *Eyre*.—Franklow was a member of the London Corresponding Society—this association undoubtedly was formed by him—it is his creature absolutely; and therefore that is the ground on which the transaction of that association must be let in.

Mr. *Solicitor-General*.—It has already been



proved that at the dinner on the 20th of January, Franklow appeared in the regimentals of this association.

Mr. Gibbs.—He did so: but I do not apprehend that if any gentleman who wears a particular uniform had appeared up stairs at dinner with your lordships to-day, that your lordships would be affected by any thing which a member of the society, to which that gentleman belonged had said. I might put the case of some gentlemen who did dine with your lordships, who are engaged in societies that wear uniforms: suppose one of those gentlemen had happened to dine with your lordships up stairs in that uniform, by the argument the solicitor-general uses, because he appeared in his uniform, at dinner with your lordships, therefore, what any one said who belonged to the society, distinguished by that uniform, would be evidence against all those who had dined with that gentleman. It seems to me that is an argument which cannot stand for a moment.

Another way in which it has been put by my learned friend, Mr. Bower, is this—That because Mr. Franklow being a member of the London Corresponding Society, presided at another society, for a purpose that is not connected with the London Corresponding Society ---therefore, first his declarations are evidence against Hardy, because he is one of those thousands of whom the London Corresponding Society consists; and next, if he constitutes another society consisting of ten thousand men, every thing, that every one of those ten thousand men, who are constituted by one man that belongs to the two or three thousand of which the London Corresponding Society consists, is to be evidence against Mr. Hardy—It does not seem to me that there is any principle of law upon which any of those men who happened to belong to a society, instituted by Franklow, he happening to be a member of the society of which Hardy was a member, that the declarations of any one of those men so sub-connected with the society, no, not even upon oath, can be evidence against Hardy, to prove either that he has compassed the king's death, or done any of the acts stated in this indictment, or that those acts were pointed to that design against the king's life. Perhaps, I am less distinct in arguing the case before your lordship, because, I confess, I do not feel any principle upon which this can be contended to be evidence.

Mr. Bower.—I will prove that none were to be admitted into Franklow's Association but members of the London Corresponding Society.

Lord Chief Justice Eyre.—Whether the principle will apply to the particular fact is another thing; but it has been so often stated, that I am surprised we have not had the good fortune to make ourselves understood by the bar, because we have stated from the beginning of this trial, that there was a species of

evidence, which was admissible in this case, which had no immediate relation to the prisoner; and that there was another species of evidence which had immediate relation to the prisoner—that inasmuch as the prisoner is charged with being involved in a conspiracy and some evidence being given of his having been so involved, that all the transactions of that conspiracy, to which he is not immediately a party, he will be bound by, if, upon the whole, he has consented to that general conspiracy; and that, therefore, all the transactions of a plot are always given in evidence, without regard to the question, whether the prisoner is proved to be concerned in those particular transactions—always with this reserve, that there must be evidence enough against the prisoner to prove him so involved in the plot, as to become responsible for all the parts of it—that seems sufficiently distinct.

But there may be a doubt whether this particular case falls within the principle. The first question is—whether there is any evidence here of Franklow's being a member of the London Corresponding Society; if the only proof of that is, that he dined in an uniform at their annual dinner, I should have great difficulty about that, because, I understand, that they were in the habit of receiving visitors as well as entertaining their own members—that being so, a man might be there without being a member of the London Corresponding Society.

Supposing it once proved distinctly that he was a member of the London Corresponding Society, then the question will be, was he a member of the Corresponding Society, who is charged with having a great share in the whole of this transaction—is found to be associating persons together under a pretence not true in fact, of their being inhabitants of Lambeth, and associating for the defence of the inhabitants of Lambeth; that they are furnished with arms, are learning the manual exercise, and are connected with the society, either by Franklow's being, or being themselves members of the Corresponding Society. I cannot undertake to say, that that will not connect with the general history of this transaction; and, therefore, there may be room upon that ground to admit the evidence; but first of all, how is the fact with regard to Franklow being a member?

Mr. Gibbs.—I could understand how Franklow's declarations were evidence, but the point that puzzled me was, I could not understand how the declarations of those men who were only concerned with Franklow in his association, could be evidence, because it seems to me upon the same principle that the declarations of people sub-employed by them, and of others sub-employed by them, and so on, would be evidence.

Lord Chief Justice Eyre.—Unless they can be put exactly in the condition of Franklow, your objection is right.

Mr. Attorney General.—Was Franklow a



member of the Corresponding Society?—He was.

Mr. Bower.—Whether, previous to your admission into that society, you had any conversation with the prisoner about the London Corresponding Society, about providing arms for the Lambeth Association?—I cannot recollect.

Were you admitted a member of the London Corresponding Society, before you were employed by the Lambeth Association?—Yes.

How happened you to be admitted a member of the London Corresponding Society?—Mr. Hardy told me to meet a young man who would go with me to the division, and I should be admitted, and I was by that means admitted.

Before you were admitted to the Lambeth Association, were you asked at all, whether you were a member of the London Corresponding Society?—I do not recollect that I was.

Did Franklow know that you were?—I have no reason to think he did not; I believe he did.

Hardy did know it?—Yes.

From the conversation of the members there associated. —

Lord Chief Justice Eyre.—Enquire what the conversation was, because whether he rightly collects the effect of it or not, cannot be known with certainty.

Mr. Bower.—Tell us the substance of any conversation you have heard amongst the members of this society respecting the purposes of this association for a parliamentary reform?

Mr. Gibbs.—It seems to me that it is not open to Mr. Bower to fix the prisoner with what the witness may fancy he has collected from conversations that he has heard at this society, without mentioning who those persons were from whom he heard it: for how am I to contradict it?

Mr. Bower.—If you ever heard any conversations of the kind, do you recollect any of the members of the society who were present?

Lord Chief Justice Eyre.—You said you understood from conversation amongst them, what they intended to do. Now what were those conversations, and from whom did you hear those conversations?—I really cannot name the persons; I make no doubt but what Mr. Nodder and Mr. Sanderson themselves might be present, they were members of the same association.

Mr. Bower.—Did you hear any thing from Franklow about a parliamentary reform?—I cannot say I recollect any thing that he said particularly; he was present when such conversation passed.

Frederic Polydore Nodder sworn.—Examined by Mr. Bower.

Were you a member of the Loyal Lambeth Association?—No.

Were you ever present with them?—No. Were you ever at Spence's in Turnstile?—I was.

Were you ever there when any of the Loyal Lambeth Association were there?—I cannot tell, for I do not know any thing of any persons of that description.

George Sanderson sworn.—Examined by Mr. Bower.

Were you ever present at any meeting of the Loyal Lambeth Association?—None of that description as I know of.

Mr. Bower to Williams.—Did you ever hear any conversation in the presence of Franklow, from the persons who were present there at that association?—Yes; I have said so already.

You have, in the presence of Franklow, though you do not know the persons?—Yes.

Mr. Bower.—I submit that it is sufficient to let in the evidence.

Mr. Justice Grose.—But let us hear the conversation, Mr. Bower, not what he collected.

Lord Chief Justice Eyre.—All that can affect Franklow by the general evidence, must be admissible.

Mr. Erskine.—The Court has ruled frequently in the course of the trial,—and it would be indecent in us to argue it again,—that any thing said or done by any member of the London Corresponding Society, or any members of any other society with which that society is implicated, will be evidence to prove the first branch of the conspiracy, and that they must go on to build upon that evidence that which is necessary afterwards to affect the prisoner. Therefore I submit to your lordships what I take to be the distinction here.—Mr. Bower was going on to prove that all the members of the Lambeth Association were members of the Corresponding Society, which would put an end to our objection; or supposing they were not all members, if the witness had said that what was done came from a member of the Corresponding Society, then I apprehend it will be evidence also; but your lordship has truly said, that Mr. Hardy does not seem to be more connected with Williams, the serjeant major of this particular body, than merely in the course of trade he asked him if he knew any body that wanted guns, he said he did not; this man made shoes for him; in the course of a fortnight or three weeks after he recommended him to Franklow, but *non constat* that at the time he recommended him to Franklow, he knew the articles of his association, he only knew Franklow in his character of a member of the London Corresponding Society; therefore I conceive it would be going beyond the rule your lordship has established, for a man to state what he heard in the presence of Franklow, who might be attending to something else, or who might not approve of what was said, and which might have nothing to do with his



institution; it would be too much to affect the prisoner, particularly at so late a period of the cause (though I do not mean to say that would make any specific difference) with a declaration so very inconsistent with what your lordship has already heard upon this subject; it therefore seems to me an object of greater suspicion, and more our duty to guard against. The witness has said he cannot specify who the person was, and if they were not all members of the London Corresponding Society,<sup>1</sup> *non constat*, that the man was a member of the London Corresponding Society.

Lord Chief Justice *Eyre*.—Nothing turns upon the question whether Hardy did or not recommend Williams to Franklow, the ground of its admissibility is simply that Franklow was a member of the London Corresponding Society—then as a ground of the general conspiracy, it is offered to prove that Franklow has formed an association of armed men, to which association they will impute a design connected with this alleged conspiracy; whatever, therefore, will fix Franklow with that, has been considered as proper evidence to that general charge; and the only question, therefore is, whether laying, for a moment, the prisoner out of the case, supposing Franklow himself at the bar—whether if he makes an association of persons of this description, and if there are conversations passing in his presence, from whence a bad design can be imputed to this association, whether that is not admissible evidence as against him? what the effect of the evidence will be, it is truly observed, will depend upon a thousand circumstances; whether he was attending, whether if he was attending, he approved or disapproved of it? all which may avoid the effect of the evidence; still it seems to me that as against Franklow, and to fix upon him the having been guilty of forming this association for a bad purpose, the transactions that pass in his hearing are clearly evidence.

Mr. *Bower to Williams*.—You told me Mr. Sanderson and Mr. Nodder were present at a conversation that I should have asked you to, if I had been admitted; were they present at Spence's, Franklow's, or Shelmerdine's?—I have only seen them at Shelmerdine's and Spence's.

*Frederic Polydore Nodder* called in again.—  
Examined by Mr. *Bower*.

You are a member of the London Corresponding society?—I am.

Were you present at either Spence's or Shelmerdine's, and at which, at the time the last witness, Williams, was there, and when persons were assembled for the purpose of being drilled?—To my knowledge I never saw Williams but at Spence's.

You have been with Williams at Spence's, when the persons were assembled that he was drilling and teaching the manual exercise?—I have.

When you were there, did you from any persons there, hear any conversation—

Lord Chief Justice *Eyre*.—Did you say you were a member of the London Corresponding Society?—Yes, I am a member of the 13th division; here is my ticket [Producing it].

Mr. *Bower*.—Do you know whether the persons who were there, were members of the London Corresponding Society or not?—I cannot say whether all were; some of them were.

[The Ticket read.]

"No. 35, London Corresponding Society, united for a Reform of Parliamentary Representation—Unite, persevere, and be free—Division No. 13." On the back—"Frederick Nodder, paid to Midsummer tenpence, Samuel Cooper, 1794."

Mr. *Bower*.—I cannot carry this farther, and therefore I must leave it to the sense of the Court.

Lord Chief Justice *Eyre*.—I understand the Court to have decided that you may inquire into conversations in the presence of Franklow.

Mr. *Erskine*.—To what was said, but not what he collected.

Lord Chief Justice *Eyre*.—Not what he collected.

Mr. *Bower to Williams*.—Tell me any conversation you recollect when Franklow was present respecting the London Corresponding Society?—I cannot recollect the conversations.

Can you recollect any part of them; how did you collect it?—By being with them at various times, and hearing different talk; there were some among them which I did not take any notice of, or give myself any concern about.

When they met at all, was the subject of parliamentary reform introduced at all as a topic of conversation?—No, only some would be talking one to the other.

You mean it was not general conversation, not as a debate, or any thing of that kind?—No.

But they were talking to each other?—Yes.

Were they talking so that Franklow heard them?—Private persons might talk about it.

Lord Chief Justice *Eyre*.—We ought to be always very correct when collecting what people said. I think you had better not press it.

Mr. *Bower*.—You heard from Franklow that they were to consist of sixty?—Yes.

Did you hear from Franklow whether they were to have any more, or that was to be the utmost quantity they were to have?—That was to be the number.

Had you any directions from Franklow or Hardy upon the subject of arms, or of any other kind?—I was one night in Mr. Hardy's shop, and there was a person there asked me how long I thought I should be to get a thousand.

Was Mr. Hardy present?—He was present: it was a stranger; he asked how long I thought I should be getting a thousand guns; I told him I could not think of getting so many in the situation that I was in.

What said Hardy to it?—I do not know that he made any reply.

Was any thing more said?—They said they might get a thousand from Sheffield; I said such a thing might be, but I could not undertake any thing of the kind; there as far as I recollect, the conversation ended.

*George Sanderson* examined by *Mr. Law*.

Where do you live?—In Butcher-row Temple-bar.

You keep a public-house there, the Bunch of Grapes?—Yes.

Have you ever been at Spence's with Nodder?—Yes.

How long ago is it since you first went to Shelmerdine's if ever you were there?—I must refer to the notes I have, the memorandum I made. [Refers to his memorandum.] It was the 2nd of April.

What was the occasion of your going there?—It was to decide a bet.

Did you see any fire-arms there?—I did.

Whom did they belong to?—They belonged to the armed society.

Where were they?—At Shelmerdine's in the Borough.

What is Shelmerdine?—A hatter.

On what day was this?—The second of April in the evening.

Do you know of how many persons this armed society consisted?

Lord Chief Justice *Eyre*.—How many stand of arms did you find there?—I did not take particular notice, there might be seven or eight stand of arms there.

Of how many persons did this armed society consist?—I suppose of twenty-four or twenty-five members.

Whether all the persons of the association were members of the London Corresponding Society?—I suppose they were, because they objected to my being of the armed association because I was not a member of the London Corresponding Society. I was made a member of the armed society upon a promise that I would become a member of the London Corresponding Society.

Did you afterwards become so?—I did.

How many persons have you seen at any one time together at this armed society?—I think when I first met them at Shelmerdine's there might be twenty-four or twenty-five; they did not all meet at Shelmerdine's; we adjourned to another place; it was supposed to be dangerous to meet at Shelmerdine's; the adjournment had been agreed upon before I came there; the greater part of the arms had been removed.

Who had you to teach you the military exercise there?—We did not exercise there.

(Or at the place to which you adjourned?—

VOL. XXIV.

We did not exercise there, we only adjourned there for the purpose of fixing upon a proper place to exercise in.

What was the house to which they did adjourn?—The house was in Worcester-street.

Was the name of the person Day?—The same—we went up stairs, they mentioned then that the private committee of the armed society had fixed upon another place for exercising.

Where did that private committee sit?—They sat with the rest.

At Day's?—Yes.

What were those places where you were to assemble?—One was at Spence's, the other was in Westminster, just by Tothill-fields Bridewell, at a blacksmith's shed.

Did you assemble with others at any time at either of those places?—Yes, I pretty constantly attended them; I went to Spence's there; we met once or twice a week.

For what number of weeks did you meet?—I called several times when there were none there; it was the 14th of November, I think, I first of all went;—no; it was on the 11th of April, the first time I went to Spence's to exercise; I continued to go occasionally to Spence's till May the 1st.

From the 11th of April, till May, you continued to go to Spence's, and this shed in Westminster, for the purposes of exercising?—I did.

Who was the person that generally taught you?—Formerly Williams; and Orr, from the 11th of April till May; on the first of May I took away my gun.

What was the greatest number of persons you met, at either of those places, during the period you have mentioned?—I do not think we ever met above six.

And you were there taught the military exercise?—Yes.

What was Orr?—I believe a taylor. I have heard so.

Had he served abroad?—He mentioned frequently in conversation, that he had served against the allied armies.

Was he a member?—He was a member of the Corresponding Society; he had served in the French army, from his own account.

You were not at first admitted, but you became afterwards a member of the Corresponding Society?—I did.

What was the reason that you did not go afterwards to exercise at Shelmerdine's?—He was a hatter, and frequently changed his men; and some of them, they observed, might not be staunch to the cause, and therefore it might be hazardous.

Lord Chief Justice *Eyre*.—Hazardous to the cause; to what cause?—If I might judge from the conversation, it was to obtain a parliamentary reform, at the point of the bayonet.

Lord Chief Justice *Eyre*.—When you say, the cause, do you mean the cause they were engaged in?—Yes.

2 Z



Lord Chief Justice *Eyre*.—You were in an association, and had articles of an association?—I never saw them.

Lord Chief Justice *Eyre*.—Were not the articles acted upon?—Part of them were; that we were to pay so much upon admission; one half of which was to buy arms, the other to defray the incidental expenses of the society.

Mr. *Law*.—Were you a member of the 13th division?—I was admitted a member the same night Mr. Nodder was, and received a similar ticket.

Did that meet at Robins's Coffee-house, in Shire-lane?—Yes.

Do you remember, upon the 3rd of May, any member giving an account of the time when Mr. Pitt would probably be at the House of Commons?—Yes, I perfectly well recollect the circumstance; it was in the month of May; I do not recollect the night.

What was the conversation that passed in the presence of those members, respecting the circumstance I have mentioned?—One of the members got up, and said, citizens—

Mr. *Erskine*.—Who was the member?—I do not know.

Mr. *Erskine*.—I submit it is necessary it should appear, that he was a member of the Corresponding Society.

Mr. *Law*.—Was it a member of the division?—Yes, at this meeting none were admitted but members.

What did this member say?—Citizens, Mr. Pitt will go over—I forget which of the bridges, but he mentioned one of the bridges, at twelve o'clock at night.

Did he accompany that with any observation?—None; there was a general clap upon the table, and some said it was very improper to make any comments upon it.

Was any thing farther said, at what bridge?—They mentioned the particular bridge, and on what occasion he would be detained till twelve o'clock at night; I think it was Putney bridge, but do not recollect the bridge to a certainty.

Was any piece of good news, or any thing they called good news, announced, at that time, by one of the members?—Yes; there was some good news announced that very night, as they termed it.

What was it?—A defeat of part of the British army; I do not recollect what.

Was that called good news?—It was generally so understood by the society.

Was that, so described, so announced?—Yes.

Do you recollect any thing being mentioned, with respect to any of the king's messengers?—I do.

What was that?—That he had the pleasure to inform the society, that he heard one of the king's messengers had been killed in the country.

Do you remember the name of the collector?

Do you remember any observation that a member made, respecting any of his relations?—I do recollect some observations, but cannot recollect the exact words; but I think he said, if it had been his own father, or his own son, he should be glad, if he met with the same fate.

Had who been?—The messenger.

Was that man a near relation of any of the king's messengers?—I do not know.

Was that said by Higgins?—I do not know; I do not know Higgins personally.

Was any thing mentioned, by way of caution, to the members, for fear of spies?—It was frequently hinted to the members to be cautious, for fear of spies; to be careful what they said; for, in all divisions of the society, spies from the treasury would creep in.

Do you remember any proposition for subdividing the meetings into a less number?—Yes; it was a proposal, that, as they might be prevented meeting in public houses, on account that their licences might be taken away, that they should be divided into tithings, that they might meet at the House of every tenth man.

Lord Chief Justice *Eyre*.—Was that your armed society?—No; the London Corresponding Society.

Mr. *Law*.—Was the proposition acceded to?—It was deferred for further consideration.

Was there any mention of any one of the committee being a spy?—Not in particular that I recollect; there was some one alluded to, but I did not understand who it was.

Was any thing said what should be done, if any spy was discovered among you?—One member observed, he should not regard blowing any spy's brains out, if he discovered him.

You had a musket?—Yes.

From whom?—From Williams.

That musket you have now?—No, I have not.

*George Sanderson* cross-examined by Mr. *Erskine*.

So a member said, he would not care for blowing any spy's brains out?—Yes.

Were not you a little afraid when you heard that?—I was.

Oh! you were a spy, were you?—I was.

What was that paper you had in your hand, a little while ago?—Merely a memorandum of dates.

I am glad you have it; we will go to work with dates; I like a paper of dates; you will be bound by it?—I will be bound by it, upon my oath, as near as a man can be bound to a paper of dates.

On what night was it, and at what place, that there was a rejoicing, that there was a defeat of the British troops, and when one of the members said, that one of the king's messengers had been killed; and, if it had been his father, he should have been glad, if he met with the same fate?—I think it was

Mr. *Erskine*.—None of your thinking, when you have the paper in your hands!—I have not a memorandum of the date.

What date have you taken, good Mr. *Spy*?—I do not think, upon such an occasion, being a spy is any disgrace.

Lord Chief Justice *Eyre*.—These observations are more proper when you come to address the jury.

Mr. *Attorney General*.—Really that is not a proper way to examine witnesses. Lord *Holt* held strong language to such sort of an address from a counsel to a witness, who avowed himself a spy.

Mr. *Erskine*.—I am sure I shall always pay that attention to the Court which is due from me; but I am not to be told by the attorney-general, how I am to examine a witness.

Mr. *Attorney General*.—I thought you had not heard his lordship.

Mr. *Erskine*.—I am much obliged to his lordship for the admonition he gave me. I heard his lordship, and I heard you, which I should not have heard.

What was the date when you say that passed, that there was a defeat of the British troops, and somebody said, that there was a messenger killed in the country, and he should have been glad if it had been his own father?—When first I was introduced into the 13th division, was on the 21st of April, on a Monday.

When was it you heard that conversation, from whence you collected, that the reform of parliament was to be carried at the point of the bayonet?—That was mentioned at the armed society.

Have you got any date for that?—Yes; I never was there but once, therefore I could not make an error in that; it was April the 2nd.

At what place?—At Day's.

Where is Day's?—In the Borough, near the Grove; I believe it is called Worcester-street.

How many persons were present at that time?—Some were going up stairs, and some going away; to the best of my recollection there might be twenty-two, twenty-three, or twenty-four; I did not count them, as I never expected to be called.

You must have expected it?—I had every reason to suppose I should not be called.

I wish to know from you, whether, from the conversation that you are now stating, of obtaining a reform of parliament, at the point of the bayonet, whether you collected this from one person, or the general conversation of the whole people?—It seemed to be the opinion of the whole company, that a parliamentary reform could not be obtained, but at the point of the bayonet.

And you collected, that it was their intention so to carry it?—Yes; from their general conversation.

And you fix that conversation to the 2nd of April, at this place?—Yes.

What was that you said about a bet?—The reason of my going there was to decide a bet; that was the way I first came to go there.

And you lost your bet?—I did.

You made yourself a member of the Corresponding Society?—I did.

And took those notes?—I did.

Why did you take those notes?—When I once discovered, that an armed society of this sort existed, which I thought of such dangerous tendency, I immediately gave notice to the secretary of state.

How long after you had lost your bet?—Between two and three days; but I mentioned it before that bet was decided, that, if I lost my bet, I should certainly acquaint the secretary of state.

Should you know the faces of any of those persons?—I should, of two or three of them.

Should you know more of them?—I do not think I should; I know the person in the chair, Orr.

Was Franklow there?—He was.

Do you know any body else that was there?—I think Williams was there; but I did not expect to see such a thing; I was very much flurried and confused.

*Edward Gosling* sworn.—Examined by  
Mr. *Garrow*.

Have you been for any time a member of the London Corresponding Society?—I became a member on the 15th of April.

What April do you speak of?—April, 1794.

Did you become a member, in consequence of any communication between you and any magistrate of the country?—I had not been directed to become a member, in consequence of the recommendation of any magistrate; I had been unexpectedly proposed by Whittam, and a magistrate had told me, if another person had proposed me. I should become a member.

Had you communicated with any magistrate of the country, before you communicated with the society?—Not respecting the Corresponding Society.

Who was the person that first introduced you to the society?—John Hillier.

Did you make application to him first, or he to you?—I first went to Hillier, to make some inquiries respecting a person who was a member of that society.

What led you to go to Hillier to make that inquiry?—From seeing publications of that nature, and I was informed that the person respecting whom I was directed to make the inquiry was a member of the Corresponding Society.

Publications of what nature?—From seeing publications in Hillier's shop window, which appeared to me to be of a seditious nature.

What business did Hillier carry on?—He sold pamphlets.

From that you thought it likely he was a member of the society, likely to give you information, there being some man you wanted to inquire about?—Yes.



When did you first make your application to Hillier?—I believe towards the end of March, or the beginning of April.

For what purpose did you become a member of the Corresponding Society?—On the 14th of April when I first became a member, I was unexpectedly proposed, on the day following I informed Mr. Wickham that I had done so.

What passed between you and the magistrate is not evidence, but in consequence of what passed between you and him, why did you attend the meeting?—To discover whether they had any serious intentions of arming.

You have stated that you communicated something upon the subject, to Mr. Wickham?—Yes.

Was it with his approbation that you attended the meeting for the purpose you have now stated?—It was.

Did you from time to time communicate to Mr. Wickham such facts as came to your knowledge?—I did.

And went there for the express purpose of procuring information, and giving it?—I did.

When were you first introduced?—On the 15th of April 1794.

At what division?—Division No. 11.

Meeting at what place?—Northampton-street, Clerkenwell; I do not recollect the sign rightly, but the man's name was Holt.

Did Hillier introduce you?—Yes.

What number of persons were present at that meeting?—I cannot exactly tell, there might be about thirty.

Did any thing material pass at that meeting?—There was some conversation about the proceedings at Chalk Farm.

Had the meeting then at Chalk Farm taken place?—This was the day after the meeting had been at Chalk Farm.

What passed with respect to the meeting which had been had at Chalk Farm?—The conversation turned that night principally upon that, and some were talking that it was necessary to arm to protect the convention, in the same manner as they had in France; I heard some present talking in consequence of a convention having been talked of at Chalk Farm that it would be necessary to arm to defend that convention the same as they had done to protect the Convention in France; I think it is proper to say that their minds appeared at that time to be very much heated from what had passed at Chalk Farm, and therefore from that circumstance I did not think so much of their being serious.

Do you mean that they were heated with liquor?—No, not with liquor.

What was described to have passed at Chalk Farm that should so have heated their spirits?—There were a number of resolutions passed.

Do you recollect any of those resolutions?—Yes, I remember one resolution, I can remember some circumstances which occurred at Chalk Farm.

That were stated to have occurred there—you were not there?—I was at Chalk Farm.

Then you were there before you became a member?—Yes.

State any circumstances that occurred at Chalk Farm, particularly such as were mentioned in this meeting of the division the night after?—There were a number of resolutions read which I cannot repeat; but one of them concluded with the words, brought the head of Charles the First to the block, and sent James the Second from the throne; then a man, whose name I understood was Birks, shouted. I remember a person, whose name I was told was Richter, mentioned that he had received a letter from Sheffield, I think, but am not positive to the place, that a great number of persons had met there, and that they were determined to petition parliament no more for a reform; that a convention was intended to be called, and that, I think, he said it was to take place in about six weeks, or a shorter time, I cannot recollect the positive words.

Upon Birks's shouting was any observation made by any persons present at Chalk Farm?—Some persons said that they thought holding up their hands was sufficient; this man called out, that he wished to be heard at St. James's.

Do you remember Mr. Thelwall being there?—There was a person there whose name I was told was Thelwall, whom I never saw before nor since.

Did that person take any part in the conversation and debate that was going forward?—Yes, he spoke several times.

Do you recollect any particular expression that struck you that he made use of?—Something that Mr. Dundas had threatened to bring the Scotch laws into England, and if they attempted it, they must repel force by force, or something of that sort.

Do you recollect what particular subject respecting the Scotch laws was the subject of conversation?—I believe it related to some persons that were tried.

What was the expression used?—That infamous and ever to be detested Court of Justiciary in Scotland.

Do you recollect the remainder of that sentence?—I cannot say I have a positive recollection; I made no minutes at the time.

Lord Chief Justice *Eyre*.—You have better evidence I suppose of the resolutions, than of the conversation?

Mr. *Garrow*.—Was there any direction as to the printing any number of copies of the proceedings of the day?—I think the number that was ordered to be printed was two hundred thousand.—I cannot say, whether one or two hundred thousand copies of the resolutions, if they should be wanted.

Which was the next meeting of the division that you were at afterwards?—On the Monday following I was at the meeting of another division.

Where was that?—At the house of one Morris, a jack-maker, in Brick-lane.

What division was that?—I believe they call it sixteen and twenty-five.

Did any thing material pass at that time?—I do not recollect any thing particular, any farther than doctor Hodson was recommended by the committee to be relieved.

Where was he at that time, and what was the purpose for which he was to be relieved?—There was no particular purpose stated, only he was recommended for relief.

Did you go with Hillier next day to see doctor Hodson?—I did.

Where did you go to?—To Newgate.

Whom were you introduced to there?—To doctor Hodson.

Did Hillier go with you?—Yes.

Was there any other person there besides doctor Hodson?—Yes, one Lloyd, Roussel a Frenchman, and a captain Williams, an American.

Hillier was likewise there?—Yes.

Be so good as tell us what the nature of the conversation was there in the presence of Hillier, he being one of the parties?—The principal conversation that I had was with doctor Hodson.

Was it in the presence of Hillier?—He was there; all those persons were present; the most material conversation that passed then was from doctor Hodson; he asked me if I had seen a copy of the new constitution, I told him I was but a young member, and did not know any thing of it; he then informed me that there was a very clever one coming out; the society was to be divided into divisions, and into small divisions, that the purpose of that was for the convenience of learning the use of arms, at each other's houses.

What more passed at that time?

[The witness refers to a paper.]

Lord Chief Baron *Macdonald*.—Did you make that memorandum at the time?—I did; he informed me that those divisions were to be called tithings; and that the purpose of them was likewise to keep spies from getting among them, and betraying their intention; he likewise stated, that their numbers were increasing, and that they would soon be too formidable to be resisted. I made an observation, that I did not think, from what I had seen in the society, that they appeared to be men of property, to have money to effect any thing, upon which a Frenchman, who was there, got up and said, when the society was organized, money should not be wanting.

Was this Roussel that you have mentioned?—Yes.

Did any thing more material pass at that time?—There were some toasts given, one of which was given by Lloyd; the toast was, "The World a Republic or a Desert;" doctor Hodson said, he hoped soon to see a revolutionary tribunal established in this country, for he despised all others,

He was then suffering under the sentence of the law, I believe?—Ycs.

This was said still in the presence of Hillier?—Yes.

Was any thing more said at that meeting that was material?—Roussel said he was going from there to Thelwall's, and he should set off the next day. Lloyd asked him, for the continent, he answered, *oui*. Hillier asked to France, he answered, yes.

When Hillier invited you to go to Newgate to see those persons, who did he ask you to go and see?—The persecuted patriots.

Is Mr. Lloyd confined upon any sentence upon a criminal prosecution?—I do not know; Lloyd was part of the time writing; I heard he was a prisoner, but for what I do not know.

When was the next meeting of the division?—I think it was the same evening I was at the division to which I belonged.

Which was that?—The eleventh.

Who were the persons that were present there?—One Wright a delegate, and Gordon who was secretary, and about thirty-six other persons, I believe.

This meeting was, I believe, at the Hope, in Northampton-street, upon the 22d of April?—Yes.

Who was the delegate at that meeting?—His name was Wright.

Do you recollect any conversation of Wright's in the society, upon the subject of arms?—After the society had broke up we were coming away; Wright asked me if I had got any arms, I told him no; he said he had got his musket, and that it was necessary that we should all have arms, as we might very soon be compelled to use them.

Was that said as well in the hearing of other members as yourself?—Yes; the secretary stated, that he was very sorry to leave the society just as they were going to act as well as think, and to regenerate their country.

Who was their secretary?—His name was Gordon, he was going to America; he said he should take some copies of their spirited resolutions to the popular societies there.

Did you hear any observations upon the subject of arming from Hillier, or any other member of the society besides Wright, the delegate?—Hillier said, he had not got a musket, but he had got a pike.

Do you remember being present at any time at Hillier's in the same month of April, on the 25th of April?—On the 25th of April I was at Hillier's; there were present a person whose name I afterwards was told was *Wicksly*.

Where is Hillier's house?—No. 80 or 81, Bishopsgate-street; I was told his name afterwards was a Mr. *Hicksly*, and two other persons, one of whom appeared much in liquor, the rest were sober, and there was a man of the name of Bennett, the secretary to the 16th and 5th divisions.

Was there a person there who was a mercer by business?—Yes, that was Bennett.



Were there same other persons present?—There were those I have stated; Hillier was present; the conversation was begun by this person, whose name Hillier informed me was Wicksly; he said he had received a letter from Sheffield, which informed him that they had a numerous meeting, and had determined to petition no more for a parliamentary reform; he likewise said, that this letter contained the drawing of some knives which were making there, of a particular construction, for cutting of reins; the letter contained a drawing, with this observation---these are the instruments we shall soon use.

What were they stated to be for?---To be fixed against the end of poles, and to be used against the military.

What were the knives for?---For cutting the reins.

Cutting the reins of what?---I do not recollect whether he particularly explained that.

It was stated that those instruments were to act against the military?---Yes.

Do you mean stated in terms, or that you collected that?---It was stated in terms; it was farther said, the principal dependance of the society was in securing the royal family, and both Houses of parliament.

One of the Jury.---What date was this?---On the 25th of April; he farther said, if they could resist the first shock, there would be no danger to be apprehended afterwards.

If who could resist the first shock?---I considered it to be the members of the different societies; if they could resist the first shock from the army, that there would be no fear afterwards.

Did they give any reason why the first shock being resisted, there would be no fear afterwards?---They said the royal family being secured, the army would have no head to look up to, and would be glad to accept the additional pay that would be offered them.

Whom was that additional pay to be offered by?---I understood by the societies.

Do you remember any observation that Hillier made upon that additional pay being offered to the army with respect to the comparison of sixpence a-day with any other sum?---There was something said, I believe it was eighteen-pence; that the men would not fight for sixpence a-day if they could have eighteen pence---I think it was, but I am not positive to the sum.

Whether any of the persons present at the time that these observations were made, and these facts stated, made any objection to them?---None: but I think it is proper to state that one person was very much in liquor, and took no part in that conversation.

Those who conversed were not in liquor?---No.

Those to whom the observations were addressed, except the one who took no part, were they sober?---Perfectly sober.

Did any one make any observation that had a tendency to repress this conversation?---One

of them, Bennett, went out with me into the street, and his conversation was so violent, and he spoke so loud, that I was obliged to check him, and told him the people in the street were hearing him.

Do you know a person of the name of Baxter?---I do.

Was he a member of the London Corresponding Society?---I have seen him at divisions.

At other times since that, have you heard any observation from Hillier or Baxter, upon the subject of arming?---On the 9th of May was the most material conversation I had with Baxter, that was at Hillier's house; he said he had been with an officer who had been lately---

Who were the persons present besides Baxter?---Baxter, this Bennet, Hillier, a man whose name I was told was Hill, and some other persons, whose names I do not know, were present during a part of this conversation; Baxter stated, that he had been with Mr. Joyce, who was secretary to earl Stanhope: Mr. Joyce told him there was no danger to be apprehended from Stone, that Stone had too much firmness to let them get any thing out of him by intimidation.

Whom were you speaking of by the name of Stone?---A person I understood who was confined in Newgate.

Did you understand he had been examined before his majesty's privy council?---I understood that he was committed upon a charge of high treason; we had some conversation about Hamilton Rowan's escape; he said, earl Stanhope's speech was to be printed, with an addition, which was to be very cautiously put in; he said, the committee of correspondence and co-operation were preparing an address to the army, with some strong resolutions; he said, that prudent and determined men were wanted to propagate the opinions contained in those resolutions.

Were they wanted to propagate them?---He stated, that one Moore had been particularly active and successful in getting over the army.

Did he tell you what description of the army he had been more successful with than the other?---He said, they had most to fear from the young recruits; they had succeeded best with the old soldiers in Westminster; he said, if one-third of the army was got over, the other two-thirds would not act with spirit against them; he then asked me if I knew any person who would buy a pike.

Whom are you speaking of now?---Baxter. Lord Chief Justice Eyre.---Who was it said all this?---Baxter.

Mr. Garraw.---Did he mention any thing with respect to his interview with the officers?---Yes, he said that the officers had made use of an expression not fit to be repeated, and asked him why he did not blow them all up together; he said the officer had been lately presented to the queen upon his promotion.

You think it an indecent expression?—It is as applied to such a person as him; he said, that the officer had asked Baxter why they did not blow up the whole family together; he then asked me if I knew any friends who would purchase a pike; I said I should have no objection to purchase one, but that it would be of no use unless I knew how to use it; he said, if I went either the Thursday or the Friday following, and made use of his name at the sign of the Parrot, in Green-Arbour-court in the Old-Bailey; I was to ask for one Edwards, that he would be called out to me, and I was then to tell him that Baxter had sent me, and then I was to have a pike, and I should be introduced to others, who would learn the use of them with me, and that Edwards was very clever at the use of it, and would assist us in learning; he stated, that pikes were much cheaper than muskets, and that it would be impossible for the number to procure muskets on account of the expense. There is another circumstance, he stated, that persons with muskets might do a great deal of mischief if they did not know properly the use of them: I made an observation, that I thought we might have a reform in parliament without coming to blows; he said, is there one man in the society who believes a parliamentary reform is all we want—no, not one; he said, that many men of property had hitherto kept back on account of the sanguinary conduct of the French, but that they were now willing to come forward, as they were convinced that a revolution might be effected in a few hours; he said, for his own part, he did not wish the king, or any of his family, to lose their lives, but he thought they might go to Hanover; he said, it must be expected that some blood must be shed: some particular persons had offered such insults to the people, that human nature could not overlook; the conversation afterwards turned relative to Thelwall's having been indicted, in which there was nothing very material.

Was Hillier present during the whole of this conversation of Baxter?—Yes.

Was it pronounced in a way in which every person might hear?—They might; but I did not pay much attention to any thing that fell from him, from this circumstance—that Baxter was one of the committee of correspondence and co-operation; I thought I should obtain most information from his conversation, therefore I attended more to him.

Did he state whether any, and what number of pikes were ready at that time, at any place?—He said, that many thousand were making at Sheffield, that the heads were only to come from there, but that they were to be stocked in town.

Did he give any caution with respect to conversing in the division-meeting, respecting the pikes, at that time?—He recommended that nothing of that should be mentioned at any of the division-meetings, till the new constitution should be adopted.

The new constitution of the society?—Yes, of the society.

Did he give any reason for the necessity of that caution?—Yes, he said, because there were spies in the society.

Was there any thing said in the course of this conversation with respect to the French emigrants?—It was stated by Baxter, that it would be advisable to let those who were prisoners out, and, if the French emigrants attempted to resist, they should share the fate of spies at Paris.

What prisoners?—The French prisoners of war.

Did he name any of those persons who had offered such insults to the people that human nature could not overlook?—He named several, I cannot recollect all; Mr. Pitt was one, Mr. Dundas another, and Mr. Reeves.

And other persons?—Yes.

In the course of that evening, did you return to your home in company with Baxter?—I went part of the way home with Baxter.

Did he, in the course of your going home, enlarge upon any of the subjects you had been conversing about?—I understood that the purpose of their address to the army was, to excite a jealousy between our troops and the French emigrants, which were forming into regiments; he stated the means that Moore had used to get over some of the army; that he had told them that by their oath they were to fight for their king and country, but when the king and country were at variance, they had a right to fight on which side they pleased.

Did he state to you any of the other arguments that Moore had used with the army?—He recommended that I should mix with them, treat them with beer, and enlarge upon the severity of their usage and the smallness of their pay; but I must first sound their principles, and if I found them aristocrats, then I must not go on.

In the course of the evening, when this conversation was had, was Hillier's pike produced?—I do not recollect that it was.

Was it produced at any time when any of those persons were present with you?—It was produced after that, at another meeting, on the 16th of May.

Where was that meeting at?—At Hillier's.

This is not a division meeting, but the meeting of some few members?—Yes.

Who were the persons present upon the 16th?—I believe I am wrong in point of date; it was on the 17th of May.

Mr. Garraw.—The attorney-general suggests to me, whether it is possible that I should go into any examination respecting facts which took place after the prisoner was in custody?

Lord Chief Baron Macdonald.—When was he taken up?

Mr Garraw.—On the 12th of May.

Lord Chief Justice Eyre.—No, I think it would not be proper.



Mr. Garrow.—Then we do not wish to examine as to any facts which have happened subsequent; I have at present confined my examination to facts prior to his being taken into custody. Do you recollect the circumstance of Mr. Hardy's being apprehended?—I do.

Had you any conversation with respect to admission to the House of Commons? If that was after Hardy was apprehended, I do not inquire into it?—It was after.

Do you remember a paper being distributed with respect to the Ins and the Outs?—I do.

Where was that distributed?—At the meeting at the Coach and Horses, in Hatton-garden.

Was that before Mr. Hardy was apprehended?—It was after the apprehension of Mr. Hardy.

With respect to all these circumstances that you collected from time to time, you communicated them to Mr. Wickham, the magistrate, and with his approbation attended these meetings?—I did.

And attended them for the express purpose of giving this information?—I did.

Edward Gosling cross-examined by Mr. Erskine.

What is your christian name?—Edward.

Edward Gosling?—Yes.

Are your father and mother living?—Yes.

What are you by employment or trade?—

At present I am employed by Mr. Wickham.

I am not calling you to an account for any general employment, if you are an honest man in the execution of it; do you mean employed in this business?—Yes, and in writing too; I was employed before this business by Mr. Colquhoun, in writing.

What sort of writing?—Both in his private business and on his public business.

Mr. Colquhoun is an attorney, is he?—No, a magistrate in Worship-street.

When did you begin writing for him?—About September last, but that was only occasionally.

What way of life had you been in before that?—Before that I kept a broker's shop.

Were you a dealer in naval stores; I am not asking any question you can object to; were you a dealer in naval stores?—I never in my life, upon my oath, to my knowledge, bought a store that ever was the property of his majesty, if that is what you mean.

Mr. Erskine.—I should have no right to ask that question.—I know the reason for which it was put; and it is a question which, if I was not conscious of my innocence, I had no right to answer, but as I knew I could satisfy do it, I thought it proper to answer.

Then, perhaps, you have never said to any body the direct contrary of what you are saying now to me?—I did say the direct contrary; I was asked by Mr. Worship, when I went to buy a print, what I was? and what my address was? as I conceived he would not

let me have the print if I told him I was with a magistrate, I told him I dealt in naval stores.

Did you never say to any body that you dealt in naval stores, and that you should think no more of cheating the king than of guillotining him?—Never to my knowledge; I will swear positively, I never mentioned the word guillotining the king.

Did you never say to any body, upon your oath, that you lived by smuggling, and cheating the king in his stores?—Never upon my oath.

Have you always gone by the name of Gosling?—I have not; and as means were yesterday used to deter me from giving evidence, I am willing to explain them, and am willing to explain why I went by another name; as I find every advantage is wished to be taken of me, I trust the mercy of the Court will not suffer any improper question to be put to me.

Lord Chief Justice Eyre.—As to any question which tends to accuse you of any crime, not immediately connected with this matter, I will protect you; but at the same time keep your temper, attend to the question, and give a direct answer.

Mr. Erskine.—I have treated you with civility I am sure.—Did you ever go by the name of Douglas?—I did.

When did you first assume the name of Douglas?—I believe as much as ten years since.

How long did you continue the name of Douglas?

Gosling.—I would wish to relate the circumstances under which I took that name.

Lord Chief Justice Eyre.—You had better answer the question.

I carried on the business of a hair-dresser in that name, for I believe pretty near seven years.

Where did you reside?—In Westminster.

Where in Westminster?—In Petty France, No. 3.

When did you first come to live in Petty France, No. 3, as a hair-dresser, by the name of Douglas?—It is about ten years since; I do not know that I could state exactly the time; I believe, it must be about the year 1784.

I am not very particular as to dates, I do not want to be in any of your secrets, if there can be any reason in the world for your not choosing to answer me.—Had you any particular reason for changing your name?—I will state my reason; my father had a shop of business in the city, his business was chiefly in the wig and shaving way; for improvement I wished to go to the west end of the town. I went and worked with a man, whose name was Penton, in Bloomsbury, for improvement; it was, perhaps, from false pride I did not choose it to be known that I was working as a hair-dresser, when my father kept a

taking the name of Douglas, I took it from a play-bill.

I have no objection to a decent pride, you took a very good name. It struck you in a moment to take the name of Douglas from a play-bill?—That was the reason that struck me at that time, and I had no thought of continuing under that name.

Pray how long did you play this part of Douglas?—I continued near seven years in that name, and it was from this circumstance—

Do you know a Mr. Lincoln?—I do, I did not recollect him, but I wish to state some circumstance.

Please to answer my question first, do you know Mr. Lincoln?—I do.

Who is Mr. Lincoln?—Mr. Lincoln I understand to be something to Mr. Macnamara; he collects rents for him, I believe.

Did you at any time,—I am not asking you any thing that is criminal,—did you at any time borrow any money of him?—I did, and will state the circumstances if you please.

How long ago is it that you borrowed any money, and what sum of him?—I am upon my oath, I do not know the particular sum, nor cannot state the particular time; I believe it is four or five years ago.

Was it ten guineas?—Ten pound, or guineas, I do not know which.

Did you give him a note for it?—Yes, in the name of George Douglas, part of which I paid, part my wife paid, and the remainder he has been since paid.

When did you pay part of it yourself?—I cannot state the time.

Did not Mr. Lincoln come into the London coffee-house by mere accident, where the witnesses for the crown are, I believe, provided with what is fit for them to have, and saw you there, and said, how do you do Douglas?—Permit me to explain, that that was not the way; that would carry a different construction from the manner in which it was done. Mr. Macnamara first came himself, whom I never had seen; he asked me questions; I told him a stair-case there with a man I had never seen, was not a place to enter into an explanation upon the subject.

I am not speaking about Mr. Macnamara, but asking what passed when Mr. Lincoln came into the London coffee-house?—I was, from Mr. Macnamara's conduct to me, so confused, that I hardly knew what I said.

Mr. Macnamara had been there before, and had behaved in such a manner that you were so hurried that you did not know what you said to Mr. Lincoln when he came in?—I declare, I did not recollect Mr. Lincoln's person, having never seen him but once or twice in my life.

But you recollect what you said to me, not two minutes ago; that Mr. Macnamara had been there before, and had behaved in such a manner, that when Mr. Lincoln came, you were so confused, from Mr. Macnamara's

VOL. XXIV.

conduct, that you hardly knew what you said?—I certainly did say so.

He said to you, how do you do Douglas?—He did not. When he came up, he asked me first what my name was? I said, Edward Gosling; said he, did you never go by any other name? did not you rent a house of me? my name is Macnamara; I said, this is not a place proper for explanation; he said, I came out of humanity to you,—you know you gave a note to Mr. Lincoln, some part of which is not paid, and I only came out of humanity to you to inform you, that when you appear in evidence this will be brought forward.

What would be brought forward?—This note would be produced. I told him I had not the money. I offered Mr. Lincoln the money afterwards.

Did you know where Mr. Lincoln lived in the interval, between the time when you borrowed the money from him and to the time you saw Mr. Macnamara and Mr. Lincoln at the London coffee-house?—I knew where he lived at the time I borrowed it; I do not know whether Mr. Lincoln had moved or not.

Had you seen him in the interval?—I paid a part of the money, and my wife paid another part of it. It was to be paid by instalments.

Let me ask an explanation of something, which I confess I did not understand; how came you to say to Mr. Worship that you dealt in naval stores?—Because I thought that would preclude all inquiry; because I did not choose to give him my address; because I thought if he found I was with Mr. Wickham, he would refuse then to let me have what I wanted.

Mr. Attorney General.—Do you mean Worship, the engraver?—Yes; I saw he suspected I was not friendly to their cause.

Mr. Erskine.—Who is Mr. Worship?—A secretary of a division of the Corresponding Society.

Did you never make use of the expressions that I asked you to before, that you cared no more for cheating the king than the expression I stated before?—Never in my life.

I ask you, upon your oath, whether many of these expressions, which you have been saying to-night, you did not make use of yourself, and endeavour to excite those people to do the things that you have been relating of them, and were reprimanded by them repeatedly for it?—Never.

Upon no one occasion?—The only thing I ever did, I will state: that, on the Tuesday, after the apprehension of Hardy, I mentioned what had passed at the division, in Compton-street, relative to the committee of emergency, and to know whether it was their intention to do the same.

I ask you, upon your oath, whether you were not in the constant course of using inflammatory expressions, which I will not repeat, going from one society to another using inflammatory expressions to excite those people to say to you things which you wanted

3 A



them to say?—I never wished, and do not to my knowledge know, that I ever used any one expression of the kind; in some respects I may have appeared to have approved of their proceedings with the view which was my sole design. I did not wish to lead Baxter on, nor did I find fault with him, from this circumstance, that as I had reason to believe, that arms were secreted, and it was my wish to discover where they were, that they might be found, and the mischief prevented.

It was natural you should say nothing if you went with a view of discovering that which was dangerous to the public.—But I ask you, whether you did not go about from place to place using the most inflammatory expressions?—I never did.

You say that positively?—Yes.

That you never did use inflammatory expressions of the sort that you have been mentioning?—No.

Do I understand you to swear positively then, that you never made use of any inflammatory expressions, when I put you in mind of some of them now.—Why do not the society learn the use of arms, it would be of great use, there is nothing to be done without arms?—I never made use of such an expression ever.

Nor ever made use of any expression of that nature, to excite any of the people at the societies to believe you would do mischief of any sort?—No, never to my knowledge, I never used any inflammatory expression, or any means to excite them to disturbance, or any means whatever.

Now go to your notes, and tell me what days, and at what places you attended in the prosecution of that which was extremely laudable, if it was honest, the times and the places.—But before I trouble you with that, do you know a Mrs. Coleman?—I do not.

Mr. *Erskine*.—Look across to the jury?—I do not know a Mrs. Coleman now.

Did you ever know a Mrs. Coleman?—I did.

Had you any dealings of any sort with her?—Certainly, she rented a shop of me.

Had you no dealings of any other sort? I am not putting a question of any immoral nature?—Certainly I had business, she rented a shop of me.

Is that all?—She died at my house, and I buried her.

Did she leave any will?—Yes.

Whom did she leave her property to?—Her property was partly left to one Burroughs, and partly to one James Leech.

Who made the will?—I wrote it.

Do you know Mrs. Biffin?—I do not.

You were very ill used about that business, in which you had done nothing but that which was right?

*Gosling*.—How ill used?

Mr. *Erskine*.—I mean you got into some dispute and trouble about it?—None at all, I was in no trouble about it.

†

There was no complaint made against you of any sort?—There was no just cause of complaint.

I do not ask whether there was any just cause of complaint, but was there any complaint made against you by any body upon the subject?—I cannot say I recollect the particular circumstances that might pass, there was a brother by a former husband who came up out of the country.

Do not understand me to be doing so improper a thing as to be imputing any crime to you, and to ask you to reveal it; far from it, I only ask whether any body was wicked enough to make any complaint of your conduct in that case?—I do not know that there was any complaint.

Will you swear there was none—upon your oath, was there no complaint made against you upon the subject of this will?—I cannot tell what complaints may have been made.

Upon your oath, was there not a complaint made against you, to your knowledge, for fabricating this will?—Never, that I know of.

Will you swear that?—I will swear I never heard any such thing.

Who was Mr. Leech?—A man who was formerly an apprentice, and kept a shop nearly opposite, who set up in opposition to me.

In what trade?—In the same business of a hair-dresser.

And that woman died at your house and left her property to him?—I did not say she left her property to him.

I asked you to whom she left her property?—I told you to be divided equally between a person of the name of Burroughs, at Edmonton, and a James Leech.

Was that James Leech your rival opposite?—No.

Who was that James Leech to whom this woman left this money?—A son of my wife's.

Who was Burroughs, who was that other person?—A cousin of her's or some such thing.

What connexion had you with the woman?—I had no connexion, any farther than rendering her every service in my power, during a long illness, in which I was at considerable expense.

How long had she lodged at your house?—I cannot tell exactly.

A year?—I cannot tell.

Will you swear that she lived six months with you?—I do not know the time.

Was it two months?—It was longer than that.

Three months?—Longer than that.

Four months?—I cannot state to a month.

Was the will made by an attorney?—It was not.

By yourself?—Yes.

Am I to take you that you mean to swear now, that no complaint was made against you as having forged that will?—I swear, that to the best of my knowledge or recollection, I never heard such a thing.

Will you swear positively, you never have been charged with it; a man that is charged with a capital felony cannot forget it?—I do not recollect that ever I was.

Good God! Do you mean to swear that you do not remember whether you were charged with a capital felony or not?—I do not know that I ever was.

Will you swear positively that no such charge was brought against you?—I can swear no farther than, that to the best of my knowledge, it never was.

Lord Chief Justice *Eyre*.—A charge brought when and where?—it may be a fact within his knowledge, or it may not.

Mr. *Erskine*.—I am asking you whether there was not a complaint made, that you were charged in your own presence with having done it?—Never, to my knowledge.

Am I to understand that there was not a complaint made in your presence against you for having forged that will?—I do not recollect that any person ever did.

Will not you go the length of swearing that nobody ever did do so?—I can only speak to the best of my recollection and knowledge.

Mr. *Garraw*.—I submit to your lordship that is the only answer a witness can make to such a question.

Lord Chief Justice *Eyre*.—There is no occasion for your interrupting the examination; probably, it is an answer; but he may be pressed to see whether he can answer farther or not.

Mr. *Erskine*.—Whether any body ever charged you with it in your presence?—I never recollect that any person ever did.

Do you know a Mr. Cox?—Yes; I know Mr. Cox, a cheesemonger.

How long have you known him?—I cannot exactly state how long I have dealt with him.

Dealt with him in what?—In cheesemongery and butter, and things of that kind, and some hams.

For the use of your family?—Yes; and to sell.

I thought you were a hair dresser; what! do you deal in hams?—My wife kept a shop of that sort, and I dressed hair.

Have you never had any other sort of dealings with Mr. Cox, than that which any man has with a fair tradesman that bought hams of him in the ordinary course of business?—No.

And you swear that, positively?—I do not remember any thing else; if you name any particular charge, if it comes within my knowledge, I will own it.

Mr. *Erskine*.—I do not stand here to make charges.

*Gosling*.—I purchased hams of him, and in some there were great holes filled up with mortar and stones.

Then the hams were of a bad quality, filled up with mortar and stones?—Some of them were.

Then Mr. Cox, the cheesemonger, seems to have cheated you?—Certainly; he did not use me well when I was ignorant in the business.

Mr. Macnamara came in order to intimidate you from being a witness here?

Lord Chief Justice *Eyre*.—Consider whether it will be prudent to go into an examination upon that; if Mr. Macnamara has been so imprudent as to go into a coffee-house, and talk to the witness, it would be at best an incautious thing for a gentleman to go where the crown witnesses are, to enter into conversation with them; and, I think, it had better not be done; I hope no other gentleman will do it.

Mr. *Erskine*.—I am sure he did not.

Mr. *Garraw*.—I shall examine to it.

Mr. *Erskine*.—You will examine to it when I have done, I suppose?

Am I to understand you to say, that you never dealt at all in stores, I do not mean to say dishonestly or improperly?

*Gosling*.—What kind of stores?

Mr. *Erskine*.—Naval stores—ship stores?—I have purchased old cordage, bad sacking, and such kind of things; but those I do not consider to come under the denomination of naval stores.

What were the articles that you purchased?—What is commonly called hand stuffing, used for making of paper.

Did you never say, I do not ask you whether you did it, because I have no right to do that, but you never said that you were a dealer in raw materials; that the person you spoke of, asked you to explain it; and whether in answer to that you said that you attended the sale of his majesty's stores at the dock-yards, at Sheerness, and so on—that you were well acquainted with the store-keepers, and that you generally bought them at a fifth of their value, by seeing the store-keepers to condemn them?—I never said that—I will relate to you one circumstance upon which that is taken:—I wished to get information respecting them, and Mr. Colquhoun would give me credit for that; it was upon that very business I was taken into his employment to give intelligence respecting that—I understood from Lillier that he had a relation who was a quarter-master there, and I wished, through his means, to obtain information for the service of government.

Why you had a great deal upon your hands—You say you told him the same as Mr. Worship; you did not tell Mr. Worship that?

—I told him I was a dealer in naval stores. But did you tell Mr. Worship that the way you dealt was by seeing the store-keepers to condemn them?—No, I did not tell him that.

When you were reproved for that, did you not justify your conduct, and say that you had followed the practice for years, and thought it no crime to cheat the king?—Never.

Was it in the service of Mr. Colquhoun, that you bought that paper stuff and things?



--I never bought any paper stuff belonging to his majesty in my life, upon my oath.

But I ask you, were you both a dealer in stores yourself honestly; and were you employed as an informer to prevent other people being dishonest?--I never had, to my knowledge, any charge brought against me for dishonesty for it--I obtained every information I could to prevent children and other persons, that might be tempted to purloin things--the information was not given against any person, but merely hints to prevent pilfering--no person was accused upon that information, nor did I receive any reward for it.

I do not comprehend you, explain to me what was the reason why you told Hillier you had been in the constant course of cheating government in that fashion?--I did not tell Hillier I had been in a constant course of cheating the king; he mentioned to me his having a relation a quarter-master at the yards, and to whom he talked of sending some of the resolutions; I thought that from him, as it is the quarter-master that puts up the stores, that I might obtain some information relative to those stores.

Is that an answer to my question? I asked you why you told Mr. Hillier you were in the course of doing that which you have been now stating.--I did not tell him I had been in the course of cheating the king at all.

Nor any thing to that effect?--I only told him that I was a dealer in naval stores, nothing farther.

Did you ever tell him that there were great quantities of copper conveyed out of the docks, and the manner in which it is conveyed out?--Never, the manner in which it is conveyed out.

Whether you did not tell him the copper was conveyed out of the dock-yards in butter-firkins?--No; I have given information to Mr. Colquhoun that copper has been sent away, but that was not from the king's stores; but supposed to be copper fraudulently conveyed away.

I am asking you, whether you did not tell him you had been employed yourself in conveying away this copper?--I never told him that I was employed; I wished to gain what information I could from him, and that was the sole purpose.

Did you ever tell him that you were acquainted with a woman who lived somewhere about Tooley-street, and that there were twelve hundred weight found upon her premises?--I told him I had heard such a seizure had been made, but I never saw the woman in my life; I had heard of it, and merely related that I had heard that such a thing was the fact.

Now I have nothing more to ask of you except the dates, which you will be so good as to give me with great correctness; what was the first time that you attended any of those societies?--The 15th of April; upon the 14th,

I was at a meeting at Chalk Farm; I became a member on the 15th.

You never saw the prisoner at any of those meetings?--I should not know his person again; I do not know that I did.

What part of the meeting were you in at Chalk Farm--were you in the room?--No, out in the grounds in the crowd.

On what day were you at any division meeting of the society?--On the 15th of April.

At what place?--At the Hope, in Northampton-street.

What was the next time?--The Monday following, I believe.

I wish you to be correct?--I do not know that, I have not every paper with me.

But such papers as you have, that will furnish me with dates, let me have them?--On Monday following, I was at Morris's, in Brick-lane.

What number of persons were there at that time?--About twenty-five or twenty-six, I suppose.

You did not know their persons?--I knew the persons of some of them.

Be so good as to name them?--Bennet and Hillier; there were other persons, captain Williams, I believe, was there, an American.

And about twenty-four or twenty-five persons; now what was the next night?--On the Tuesday following, I was at the hope.

Were Hillier and Bennett there?--Hillier was there.

How many persons might be present there?--About seven or eight and twenty.

I understand you to say the conversations, you have been relating, were not accidental ones, but that it was the general scope of the conversation almost every night?--That night at Morris's I did not hear any thing about arming.

When did you hear about arming?--The 22nd was the night when the delegate Wright made that observation, and the answer was given by Gordon, the secretary.

What was the next night upon which you heard any of those abominable expressions which you have sworn to here?--On the 29th of April, there was a conversation about arming.

On what night, and at what place was that horrible expression made use of concerning the king?--That was not at a division, that was at Hillier's house.

What was the date of that?--That was the 25th of April.

Who were present?--A man whose name I was told was Hicksley (who introduced the subject by saying he had received a letter from Sheffield), Hillier, Bennett, another person, whose name I do not know, and another man who appeared to be in liquor.

Are you prepared to swear positively, that you heard those expressions which you have sworn to?--I have already sworn them, and they are true.

And you stick to that?--I do.

Where were you upon the 29th?—At the Hope.

Who were present at the Hope?—There were two divisions met there that night, No. 11, and No. 6.

What number were there of each?—I suppose about forty or fifty persons together.

Were there any expressions about arming that night?—There was a print proposed by Worship the engraver, and recommended to the use of the society.

Was there any thing about arming for the purpose of threatening the king, or overturning the government?—No expression of overturning the government; but it was recommended to them to learn the use of arms.

But was any particular purpose stated?—I do not recollect, that there was any particular purpose stated.

At what time, besides the two you have spoken of, did you hear the expressions that you have related?—I have, at different times, of which I have not the dates, heard other people speaking of it, and approving of it.

Do you mean members of the society?—Yes.

What member?—Birks, the same I saw at Chalk farm.

What is his christian name?—I do not know.

What did Birks say to you?—I do not recollect the particular conversation, because I did not minute the words, therefore I will not attempt to swear to the conversation; I likewise heard a man of the name of Kelly, and likewise I heard Eaton talk of arming.

It was an armed association of sixty people; but armed for those wicked purposes you have been talking of?—I heard Kelly say so, after the apprehension of Hardy.

*Edward Gouling re-examined by Mr. Garrow.*

You said Worship produced an engraving at one of the meetings; cast your eye upon that paper; is that one of the engravings he produced [showing the witness a copper plate print of the manual exercise.]?—I believe this to be one of them; this was brought as a proof; it was to be published the next day; he brought it to the society, that they might see it.

What have the soldiers got upon their heads?—He mentioned, that they were Sams Culottes; and the caps on their heads were to be coloured red.

This is an engraving of the manual exercise, and of platoon firing?—Yes.

When you applied to him, lest he should suspect you were connected with a magistrate, you told him you were a dealer in naval stores?—I did.

And afterwards, in the rest of the conversation, you kept up that representation?—I did.

How long is it ago since you gave a note to Mr. Lincoln, Mr. Macnamara's Agent?—I cannot exactly state the time; about four or five years.

Did you give it to Mr. Macnamara, or to Mr. Lincoln?—To Mr. Lincoln.

How much was the amount?—Ten pounds, or ten guineas.

How much, at this moment is due upon that note?—I believe three guineas.

Have you ever had any application from Mr. Macnamara, for the money, till after attending this court, in virtue of his majesty's writ of subpoena, and among the witnesses for the crown?—I never saw Mr. Macnamara in my life before yesterday, not to know him.

I need hardly ask you, whether you had had any personal application from Mr. Macnamara, to pay this money?—Never.

Had you had any application, upon his part, till you were subpoenaed as a witness?—I did not see him myself; I heard Mr. Lincoln had called upon me.

How long ago?—Three or four years ago.

Did Mr. Macnamara come to you alone?—I was sitting at dinner; a person came, and said, some person came to speak to me; I found Mr. Macnamara alone.

He said he came out of humanity to you?—He said, that he was a man of property, and had a large estate in the country; that he was a friend to the king and constitution; that he would see strict justice done; and he came out of humanity to me to let me know, that this would be produced against me in court.

If what?—He did not say what.

Did Mr. Macnamara demand the money, or desire you to pay it?—He asked me, if I remembered the circumstance; I said it was an improper place to enter into an explanation; I did not know Mr. Macnamara's person; I told him, if he did, I must meet it in court.

You have been asked a vast number of questions, respecting Mrs. Coleman's will; was there any suit instituted to dispute the legality of that will?—None.

Was there any prosecution for that which is called the forgery of it?—None.

Was there ever, to your knowledge, any complaint made against you, that there was any thing foul in the transaction?—Not that I know of; the brother came to town, and appeared perfectly satisfied.

Was it, upon your oath, a fair, honest transaction, as far as you had any thing to do with it; aye or no?—It was.

[It now being half past one o'clock, on Friday morning, the Court adjourned to nine o'clock.]

*Session-house in the Old Bailey, Friday, October the 31st, 1794.*

PRESENT,

Lord Chief Justice Eyre; Lord Chief Baron Macdonald; Mr. Baron Hotham; Mr. Justice Buller; Mr. Justice Grose; and others his Majesty's Justices, &c.



*Thomas Hardy* set to the bar.

*Mr. Attorney General.*—Your lordship will recollect that *Mr. Gosling*, last night, spoke of a conversation, in *Newgate*, at which persons of the names of *Roussel* and *Hillier* were present. We are now going to prove, that *Roussel* was a member of the *London Corresponding Society*, with a view to produce some papers found upon him.

*Mr. John Gurnell* called.

Did you find that paper?—Yes; I found it at *Mr. Hardy's* house.

[It was read.]

“12th July, 1792.

“Division 37, Number 47, *Mr. Roussel*, No. 4, *Shepherd-street*, *New Bond-street*.”

*Mr. Bernard Bailey*, sworn.—Examined by *Mr. Attorney General*.

Look at that book [showing the witness a pamphlet, intitled, “*Explanation of an Engraving of the Manual Exercise and Platoon Firing*;”] has that your hand-writing upon it?—It has.

Where did you find that?—I found it in *Mr. Roussel's* apartment.

Look at that song [showing it to the witness].—This has my hand-writing on it; I found this in *Mr. Roussel's* apartment.

Where was *Roussel's* apartment?—In *George-street*, *Black-friars*; *Roussel* was present at the time.

*Mr. Bernard Bailey*, cross-examined by *Mr. Gibbs*.

Who was with you, when you found these papers?—*John Coomber*, an officer.

Who desired you to go?—*Mr. Wickham*, a magistrate.

When did you find them?—On the 19th of May.

*Mr. Gibbs.*—I submit to your lordship, that, according to the rule laid down yesterday, the song is not evidence, being found after *Mr. Hardy* was taken up.

*Lord Chief Justice Eyre.* I wish it had been observed before.

*Mr. Gibbs.*—I wish it had; but I did not know it till I came to the cross-examination of the witness.

[The Court ordered the song to be struck out of the evidence.]

*Mr. Attorney General.*—I submit to your lordship, that the book must be evidence; because the book, your lordship sees, is an explanation of the engraved plate, which has been produced, and which was found before the prisoner was in custody.

*Mr. Gibbs.*—How do I know that this was not printed after the apprehension of *Mr. Hardy*?

*Lord Chief Justice Eyre.*—The other was found before; the material objection is, that

this may have been printed afterwards; it was found afterwards, and there is no evidence of its existence before; therefore it must be rejected, unless you are prepared to show, that the printing existed before.

*Mr. Attorney General.*—The papers I am now going to produce were found, one in the custody of *Mr. Martin*, the other of *Mr. Thelwall*; they were found in their custody certainly after the prisoner was apprehended, but they bear date in April, 1794; and they appear, upon the face of them, to have been prepared for the *Chalk Farm* meeting.

*Mr. Gibbs.*—I only wish to have your lordship's opinion; I do not mean to take up the time of the Court; it seems to me, that there is certainly the same objection to this paper, as to those which were offered before, of whatever date they may be, unless they can prove, either that they were in the possession of the prisoner, or of some member of the *London Corresponding Society*, before he was apprehended, or that he put that date to them; the circumstance and bearing of the date certainly is not evidence.

*Mr. Attorney General.*—Supposing the objection to be well founded, which I do not admit, I believe I can prove, that the paper had an actual existence in the month of April, 1794.

*Mr. Gibbs.*—Prove they existed in the possession of some member of the *London Corresponding Society*.

*Mr. Attorney General.*—I will prove, that they existed in the possession of *Mr. Martin*.

*Mr. John Groves* sworn.—Examined by *Mr. Law*.

Were you present at the *Globe-tavern*, in the Strand, on the 20th of January, 1794?—I was.

At a general meeting of the *London Corresponding Society*?—It was.

Were you a member of that society?—No, not at that time.

When did you become a member of that society?—Very early in the month of February.

Did you make any observations of the proceedings which took place on the 20th of January, 1794?—Yes.

What was your inducement to become a member of that society?—I was desired so to do.

You became a member for the purpose of discovering their proceedings?—I was desired by a particular gentleman to go there for that purpose, whose name I will mention, if you choose it.

There is no occasion for mentioning the name; relate as well as you can what passed on the 20th of January, 1794, at the *Globe-tavern*?—There was a very great assembly of people there, and I believe *Mr. Martin* was called to the chair, who read an address, and I believe a *Mr. Richter* afterwards read it over again.



Do you recollect any particular toast that was drank upon that occasion?—I do not recollect any particular toast now, but a great number were read, and by the paper that was printed I should be able to refresh my memory.

You have no paper that you had at the time?—I have none.

Do you recollect any conversation held by any of the members of that society at that meeting—what was the language?—In general the language was universal suffrage and annual parliaments; they were met for that purpose.

Was it mentioned in that society by what means those objects were to be obtained?—Not that day; I heard nothing that day about the means.

Did you hear at any subsequent meeting any conversation with any member of the Corresponding Society by what means that object was to be obtained?—I always understood that they were to be obtained —

Mr. Gibbs.—We do not mind what you always understood; relate what any body said.

Mr. Law.—What was publicly professed in any of the meetings of that society to be the object and the means?—By enlightening the minds of the lower orders of the people, to give them opportunities of instruction, that they might know what the natural freedom of all mankind was.

Did they say how they were to carry into effect that purpose?—By the distribution of certain papers calculated for their understandings.

Mr. Gibbs.—Does your lordship think that this sort of examination ought to go on without mentioning the name of any person from whom it came? it is, your lordship sees, utterly impossible for us to have an opportunity of contradicting this kind of evidence.

Lord Chief Justice Eyre.—If he knows who the persons were who mentioned these particulars he is now stating, he ought to give their names; if he does not know the names of the persons, he should state it as being said by persons of that society.

Mr. Law.—Do you recollect any conversation held by persons whom you recollect to have been members of the London Corresponding Society respecting the means by which these objects were to be obtained?—I cannot recollect any particular person; but I may venture to say it was the general voice of the society.

Did you hear any thing publicly expressed in the society about arms?—No, never.

Were you present at any lecture of Mr. Thelwall's?—I have two or three times been there.

What was the sort of exhortation, the object of those lectures?—That is a matter of opinion I believe, if I am allowed to give my opinion upon those lectures I will.

I am not asking your opinion of their general tendency, but what was the substance of them?—It was a general abuse of administration altogether.

Did he speak of the branches of the legislature?—Certainly, in their respective capacities.

In what manner did he represent them?—In every way that was truly ridiculous.

In what manner did he speak of his majesty?—In terms of contempt.

Lord Chief Justice Eyre.—What were those terms of contempt?—I have heard him make use of the word Solomon.

Did you ever hear him speak of the House of Lords and speak of the utility or inutility of that branch of legislature?—I have.

What did he say about the House of Lords?—He said that it was an aristocratic branch that swallowed up almost every other function of the government.

Did he recommend the abolition of any of those parts?—A new *modellation* he recommended.

In what manner did he recommend them to be new modelled?—By the general sense of the country.

How to be taken?—By annual parliaments and universal suffrage.

Did he recommend any particular means of obtaining those annual parliaments?—If I understood him right, his meaning was—

Did you ever hear him mention a convention?—Yes, by calling together the whole body of the people.

Did he recommend that measure?—He certainly did.

He recommended a convention for the purpose of new modelling the government and obtaining annual parliaments and universal suffrage?—Yes.

Were you present at Chalk Farm?—I was.

On what day were you there?—If I recollect right, the 14th of April.

Was there a very large assembly of persons there?—There was a very large assembly of persons there.

Do you know the persons of any present?—I do now know, I was not then sufficiently acquainted to describe them, but since I have had means of knowledge.

Do you know the prisoner?—Yes.

Was he among the persons present?—He was.

Who was in the chair?—I believe a man of the name of Lovett.

What passed at that meeting?—There was a letter read from a society called the Friends of the People, which letter contained—

Lord Chief Justice Eyre.—No matter, you must not state the contents of the letter.

Mr. Law.—State any conversation and transactions at that meeting which you recollect by any persons whom you have since known to be members of the London Corresponding Society; what was proposed to be done there?—The proposal was, that there should be an address.

Have you no other recollection of what you heard read or spoken?—If I may be allowed to look at a paper I have in my pocket.



Lord Chief Justice *Eyre*.—If he can speak to any particulars that happened there beyond the address, and what is contained in the address, to be sure it will be proper to examine him to it; I believe the address is in evidence.

Mr. *Attorney General*.—It has not yet been read, but I am going to read it.

Mr. *Law*.—Were any printed papers delivered at that meeting?—There were.

Have you any of them?—I have. [produces a copy.]

[It was read.]

"At a General Meeting of the London Corresponding Society, held on the Green, at Chalk Farm, on Monday the 14th of April, 1794, J. LOVETT in the Chair, the following Letters were read:

"To the Chairman of the Society of the Friends of the People.

"Sir:—At a crisis so important as the present there needs no apology on the part of the 'London Corresponding Society,' for addressing itself to all other associated societies, who have in view the same object as themselves.

"To the 'Society of the Friends of the People,' arguments are not wanting to show the importance and absolute necessity of a full and fair representation of the people of Great Britain. They have investigated the subject for themselves; they have exposed to the world a series of plain and indisputable facts, which must excite in the mind of every man well disposed to his country, apprehensions of alarm for the security of the few remaining vestiges of liberty, from which, as Britons, we derive consolation.

"Deeply impressed with considerations of this nature, the London Corresponding Society earnestly solicits, at this time, the concurrence and assistance of the Society of the Friends of the People, in assembling, as speedily as the nature of the business will admit, a Convention of the Friends of Freedom, for the purpose of obtaining, in a legal and constitutional method, a full and effectual representation.

"Our request is not made from the impressions of the moment, but after the maturest deliberations on the value and importance of the object for which we are contending, and of the difficulties we may expect from those whose present interests render them hostile to the welfare of their country.

"The opposition of such persons is no small argument for the goodness of our cause; and their late conduct when compared with their former professions, exhibits a depravity, unparalleled, we trust, on the page of history.

"Under the auspices of apostate reformers, we have lately beheld serious and alarming encroachments on the liberties of the people.

"We have seen with indignation and horror men legally and peaceably assembled, dispersed by unconstitutional powers, and their papers seized.

"We have seen some of our most virtuous

brethren, whose only crime has been an imitation of Mr. PITT and his associates, sentenced to fourteen years transportation, without the sanction of law or even of precedent, of which number, one was held up in the British parliament as convicted and condemned, before he was even put upon his trial.

"The insidious attempts also to introduce foreign troops into this country, without the consent of parliament, and the intended bill to embody foreigners into his majesty's service, are measures sufficiently calculated to awaken our fears for the existence even of the name of liberty. Nor can we overlook that part of the present system of corruption, which maintains out of the public plunder, a train of spies, more dangerous to society than so many assassins, whose avowed business is to destroy the friends of the country, one by one.

"These are grievances which demand immediate redress, and when added to those evils which are necessarily connected with every partial representation of the people, call for the strenuous exertions of every lover of his country.

"But we are told that the present is not the time for reform, and that innovation may introduce disturbance. Are those persons to judge of the proper time to make reform, who exist only by corruption? Are the people of Britain to endure every thing without repining, without ardently seeking a radical reform, because disturbances may happen? Have the enemies to reform told us whence these disturbances are to originate? Has a single overt act been committed by the friends to freedom? Have not all the riots, all the public disturbances, all the seditious assemblies been excited by the enemies to reform? And do they mean to tell us that they will still find other instruments for their wicked designs; that they have yet those who will act over again the outrages that have been perpetrated in some parts of Britain, and attempted in others?

"If such is the determination of those persons hostile to a fair representation, let them look to the consequences, but let them recollect that it has happened, and may happen again, that those who kindled the flames have perished by them.

"The friends to reform are friends to peace, their principles can be promoted only by peaceable means, they know of no other method of obtaining the object they desire. But they will not be alarmed by the threats of venal apostates, they will not draw back because they have seen some of their best friends doomed to exile. They will pursue the course in which they have begun, and turn neither to the right nor to the left.

"Convinced as the London Corresponding Society is, that as there is no power which ought, so there is no power which can finally withstand the just and steady demand

look with confidence to the determination, and they hope to the co-operation of the 'Society of the Friends of the People,' in the attainment of an object which involves the dearest interests of society.

"Convinced also that their intentions are of the purest kind, they will never stoop to answer the calumnies of their enemies; but will at all times, and in all circumstances, endeavour, by firmness and perseverance, to deserve the countenance and approbation of the best friends of their country, the friends of a fair Representation of the People of Great Britain.—I am, sir, for the London Corresponding Society, THOMAS HARDY, Sec.

"April 4, 1794."

"COMMITTEE ROOM,

"Fifth-street, April 11, 1794.

"Sir;—Your letter of the 4th instant, addressed to Mr. SHERIDAN, chairman of the FRIENDS OF THE PEOPLE, was laid before that SOCIETY at their meeting on Saturday last; and they instructed their committee to thank the LONDON CORRESPONDING SOCIETY for their communication, and to express the alarm they feel in common with every Friend of Liberty, at the late extraordinary proceedings of Government, so ably detailed, and so justly reprobated by your Society. They assure you that all the Friends of Reform, may 'look with confidence' to the determination and co-operation of this society in every peaceable and constitutional measure, which shall appear to them calculated to promote the object of their institution; but they do not think that which is recommended in your letter, is likely to serve its professed purpose. They fear it will furnish the Enemies of Reform with the means of calumniating its advocates, and so far from forwarding the cause, will deter many from countenancing that which they approve. For these reasons, the Friends of the People must decline to send Delegates to the convention proposed by the London Corresponding Society:—at the same time they renew their assurances of good will, and desire of preserving a proper understanding and cordiality among all the Friends of Parliamentary Reform, notwithstanding any difference of opinion that may occur as to the best method of accomplishing it.—In the name, and by order, of the committee,

(Signed) "W. BRETTON, chairman."

"To Mr. T. Hardy, Secretary to the London Corresponding Society."

Mr. Law.—Was that letter from the Friends of the People read there?—It was.

How was it received?—With universal silence, I believe; I do not recollect any approbation of it.

Do you recollect any marks of the con-  
—Yes, there was some few fell a

XXIV.

"The following RESOLUTIONS were then passed Unanimously:

"Resolved Unanimously,—1. That this society have beheld with rising indignation, proportioned to the enormity of the evil, the late rapid advances of despotism in Britain; the invasion of public security, the contempt of popular opinion, and the violation of all those provisions of the Constitution intended to protect the People against the encroachments of Power and Prerogative.

"2. That our abhorrence and detestation have been particularly called forth by the late arbitrary and flagitious proceedings of the Court of Justiciary in Scotland, where all the doctrines and practices of the *Star Chamber*, in the times of Charles the 1st, have been revived and aggravated; and where sentences have been pronounced in open violation of all law and justice, which must strike deep into the heart of every man, the melancholy conviction that BRITONS ARE NO LONGER FREE.

"3. That the whole proceedings of the late British Convention of the People at Edinburgh, are such as claim our approbation and applause.

"4. That the conduct of citizens MARGARET and GERRALD in particular, by its strict conformity with our wishes and instructions, and the ability, firmness, and disinterested patriotism which it so eminently displayed, has inspired an enthusiasm of Zeal and Attachment which no time can obliterate, and no persecution remove; and that we will preserve their names engraven on our hearts till we have an opportunity to redress their wrongs.

"5. That any attempt to violate those yet remaining laws, which were intended for the security of Englishmen against the Tyranny of Courts and Ministers, and the Corruption of dependent Judges, by vesting in such Judges a legislative or arbitrary power (such as has lately been exercised by the Court of Justiciary in Scotland) ought to be considered as dissolving entirely the social compact between the English nation and their Governors; and driving them to an immediate appeal to that incontrovertible maxim of eternal justice, *that the safety of the people is the SUPREME, and in cases of necessity, the ONLY law.*

"6. That the arming and disciplining in this country, either with or without the consent of parliament, any bands of emigrants and foreigners, driven from their own country for their known attachment to an INFAMOUS DESPOTISM, is an outrageous attempt to overawe and intimidate the free spirit of Britons; to subjugate them to an army of mercenary cut-throats, whose views and interest must of necessity be in direct opposition to those of the Nation, and that no pretence whatever ought to induce the people to submit to so unconstitutional a measure.

"6. That the unconstitutional project of raising money and troops by forced levies



lences (and no benevolences collected upon requisition from the king or his ministers can ever in reality be voluntary) and the equally unjustifiable measure of arming one part of the people against the other, brought Charles the first to the block, and drove James the second and his posterity from the throne; and that consequently ministers in advising such measures, ought to consider whether they are not guilty of high treason.

"8. That this society have beheld with considerable pleasure the *consistent respect* which the House of Lords displayed for their own constitutional rules and orders, on the 4th of the present month, upon the motion of Earl Stanhope, concerning the interference of ministers in the internal government of France; and that it is the firm conviction of this society, that this circumstance when properly detailed, will have a considerable effect in convincing the country at large, of the true dignity and utility of that branch of HIS MAJESTY'S PARLIAMENT.

"9. That the thanks of this meeting be given to EARL STANHOPE, for his manly and patriotic conduct during the present session of parliament; a conduct which (unsupported as it has been in the senate, of which he is so truly honourable a member) has, together with the timely interference of certain spirited and patriotic associations, been nevertheless already productive of the salutary effect of chasing the Hessian and Hanoverian Mercenaries from our coasts; who, but for these exertions, might have been marched perhaps, ere this, into the very heart of the country, together with others of their countrymen, to have peopled the BARRACKS, which every where insult the eyes of Britons.

"10. That it is the firm conviction of this society, that a steady perseverance in the same bold and energetic sentiments, which have lately been avowed by the Friends of Freedom, cannot fail of crowning with ultimate triumph, the virtuous cause in which we are engaged; since whatever may be the interested opinion of hereditary senators, or packed majorities of pretended representatives, Truth and Liberty, in an age soon lightened as the present, must be Invincible and Omnipotent."

"This Society having already addressed M. Margat, their Delegate, an ADDRESS to JOSEPH GERRALD was read as follows, and carried unanimously.

"To JOSEPH GERRALD, a prisoner sentenced by the High Court of Justiciary of Scotland, to Transportation beyond the Seas for FOURTEEN YEARS!

"We behold in you our beloved and respected friend and fellow-citizen, a Martyr to the Glorious Cause of Equal Representation, and we cannot permit you to leave this degraded country without expressing the infinite obligations the people at large, and we in parti-

cular, owe to you for your very spirited exertions in that cause upon every occasion; but upon none more conspicuously, than during the sitting of the BRITISH CONVENTION of the PEOPLE at Edinburgh, and the consequent proceeding (we will not call it trial) at the bar of the Court of Justiciary.

"We know not which most deserves our admiration, the splendid talents with which you are so eminently distinguished, the exalted virtues by which they have been directed, the perseverance and undaunted firmness which you so nobly displayed in resisting the wrongs of your insulted and oppressed country, or your present manly and philosophical suffering under an arbitrary, and till of late unprecedented sentence: a sentence one of the most vindictive and cruel that has been pronounced since the days of that most infamous and ever-to-be-detested Court of Star-Chamber, the enormous tyranny of which cost the first Charles his head.

"To you and your associates we feel ourselves most deeply indebted. For us it is that you are suffering the sentence of transportation with felons, the vilest outcasts of society! For us it is that you are doomed to the inhospitable shores of New Holland; where, however, we doubt not you will experience considerable alleviation by the remembrance of that VIRTUOUS CONDUCT for which it is imposed on you, and by the sincere regard and esteem of your fellow citizens.

"The equal laws of this country have, for ages past, been the boast of its inhabitants; but whither are they now fled? We are animated by the same sentiments, are daily repeating the same words, and committing the same actions for which you are thus infamously sentenced; and we will repeat and commit them until we have obtained redress; yet we are unpunished! either therefore the law is unjust towards you in inflicting Punishment on the exertions of *Virtue and Talents*, or it ought not to deprive us of our share in the GLORY of the *Martyrdom*.

"We again, therefore, pledge ourselves to you and to our country, never to cease demanding our rights from those who have usurped them, until having obtained an Equal Representation of the People, we shall be enabled to hail you once more with triumph to your native country.—We wish you Health and Happiness; and be assured we never, never shall forget your Name, your Virtues, nor your GREAT EXAMPLE.

"The London Corresponding Society.

"JOHN LOVETT, Chairman.

"THOMAS HARDY, Secretary.

"The 14th of April, 1794."

"It was also unanimously resolved,

"That the Committee of Correspondence be directed to convey the approbation of this society—1. To Archibald Hamilton Rowan, prisoner in the Newgate of the city of Dub-

lin, for his unshaken attachment to the people, and for his spirited assertion of their rights.

"2. To John Philpot Curran for his admirable and energetic defence of A. H. Rowan, and the principles of liberty, as well as for his patriotic conduct in parliament.

"3. To the society of United Irishmen in Dublin, and to exhort them to persevere in their exertions to obtain justice for the people of Ireland.

"4. To Skirving, Palmer, and Muir, suffering the same iniquitous sentences, and in the same cause with our delegates.

"To John Clarke and Alexander Reid, for their so readily and disinterestedly giving bail for our delegates, instigated thereto solely by their attachment to liberty, uninfluenced by any personal consideration.

"6. To Adam Gillies, Malcolm Laing, and James Gibson, for their able assistance given to Joseph Gerrald, at the bar of the high Court of Justiciary at Edinburgh.

"7. To felicitate Thomas Walker, of Manchester, and the people at large on the event of his, as well as several other late trials, and on the development of the infamy of a system of spies and informers.

"8. To sir Joseph Mawbey, for his manly conduct at the late surreptitious meeting held at Epsom in Surrey.

"It was also unanimously Resolved,—That two hundred thousand copies of the Proceedings and Resolutions of this meeting be printed and published.

"J. LOVETT, Chairman.

"T. HARDY, Secretary.

"Resolved,—That the thanks of this meeting be given to the Chairman, for his manly and impartial conduct this day.

"T. HARDY, Secretary."

Mr. Law. With whom did you go to this meeting?—I went from a place in Store-street, Tottenham-court-road, a good part of the way with Mr. Thelwall.

How came you to know that the meeting was to be held at Chalk Farm? Had you any reason to expect it to be held at any other place?—I had reason at first to believe it would be held in Store-street.

Was the change of place intimated to you?—Not till after I got to Store-street.

Who told you it was to be at Chalk Farm?—Thelwall.

Did he tell you why it was given out to be held in Store-street?—If I recollect right, he told me the reason given out of its being to be held in Store-street was, an imagination of the magistracy interfering to prevent the meeting.

Were there any written or printed papers giving notice at Store-street, informing persons the meeting would be held at Chalk Farm?—Yes, a written notice of it put upon the door.

Who proposed Mr. Lovett's being put in the chair?—I cannot say.

Who were the principal persons who spoke and acted in that meeting?—Mr. Lovett, Mr. Richter, Mr. Thelwall, Mr. Hodson.

Did Mr. Thelwall make a speech at that meeting?—Two or three.

Do you recollect any thing particular in either of those speeches respecting spies or informers?—There was a clamour went round that there were spies and informers there; Mr. Thelwall was for admitting all spies and informers there, because the number of the members of the London Corresponding Society, could be no agreeable news to the minister.

Who read the resolutions?—I think Mr. Richter.

Do you remember any objection being made to the words 'a British Senate,' in one of those resolutions?—I think there was.

By whom was that objection made?—I cannot tell.

Do you recollect Mr. Thelwall saying any thing upon that subject?—As far as my belief goes, I can say, but no farther.

After that meeting was over, where did you adjourn to; where did you spend your evening; do you recollect any thing particular that Mr. Hardy said or did at that meeting?—I only recollect Mr. Hardy speaking three words: Mr. Richter was reading, and in the midst of his reading he stopt short to make some observations of his own; Mr. Hardy, who stood below, said, looking up to him, 'read, Sir, without comment'; that was all he said, and that is the whole I recollect of Mr. Hardy's saying any thing at all.

Lord Chief Justice Eyre.—What was Richter reading at that time?—The paper that has been just read.

Lord Chief Justice Eyre.—Which of those papers?—The address of the London Corresponding Society.

Lord Chief Justice Eyre.—The general address; the address to Margat; or, the approbation of Hamilton Rowan, and the rest?—I mean the general address.

Mr. Law.—Do you remember any mention of a future meeting to be held of the society?—There was a talk of a meeting to be called again soon.

Do you recollect who mentioned that?—No.

After the business of the day was over, where did you adjourn to for supper?—I went to the division room in Compton-street.

Were suppers provided at other divisions?—I do not know, I never went to any but my own division.

Who was chairman?—Mr. Thelwall.

Do you recollect any remarkable language used by Thelwall during supper, or in the course of that evening?—I heard something which very much astonished me.

What was it?—Thelwall said, taking up a pot of porter in his hand, which had been



livered him by some waiter or somebody, he blew off the head of the porter, and said this is the way I would have all kings served, or this is the way I would serve all kings, I know not which.

But one or other of those expressions you are certain to?—One or other I am certain of.

Was there any particular toast given?—Yes.

What was that toast?—The lantern, at the end of Parliament-street.

The lamp-iron?—Yes, I beg pardon, the lamp-iron, at the end of Parliament-street.

Did he call upon any body else for another toast?—He called upon somebody to cover it.

What was it covered with?—Somebody, whom I know not, in the further end of the room, cried out, the Treasury-bench.

Were those toasts drank by the persons then assembled?—They were.

And the persons assembled consisted of members of that division of the Corresponding Society?—Yes, I should believe that no visitor was there that night.

Do you know a person of the name of Green?—Yes.

Is he a member of the Corresponding Society?—Yes, he was at that time.

What conversation had you with him at the time he was a member of the Corresponding Society, respecting universal suffrage, and annual parliaments?—That was not in the division room.

What did he say respecting the general object of their plan, what they aimed at attaining?—He once said to me that annual parliaments and universal suffrage were only ladders to obtain their ends, or words to that effect.

Was he of the same division with yourself?—He was.

Where was it?—In a place called the coffee-room, before you go into the division room.

One of the Jury.—Was it that same evening you have been speaking of?—No, I am not speaking of that same evening.

Mr. Law.—Where is the house in which this passed?—No. 3, in Compton-street, Soho.

Did he say any thing respecting the use parliament was of?—Yes.

Lord Chief Justice Eyre.—Was there any body else present, or was that a conversation between you two only?—Between us two, there were several other people in the place called the coffee-room.

Lord Chief Justice Eyre.—Were they near enough to hear this conversation?—I do not think any one was.

Mr. Law.—Did Green show you a knife of any particular construction?—I must explain that by something which happened previous to it. At the meeting at Chalk Farm, there was a kind of shed in which we were all sitting previous to the commencement of the business, and there was a bit of bread and cheese and some porter brought: I was sit-

ting with half a dozen or ten in the same box, and I was surprised by five or six of them pulling out little instruments exactly corresponding with each other.

Lord Chief Justice Eyre.—What sort of an instrument?—I mean a sort of thing called a *couteau secret*, a French knife.

Mr. Law.—Describe the form of them, have you got one of them?—I have not.

Have you seen a French knife?—Yes, there is a spring, so that when the blade is put out, unless you undo that spring it cannot close.

Were they fixed like a common case knife?—Exactly; and unless the spring fails, the person cannot cut himself by its flying back.

You observed several of them with those knives?—I think five or six.

You do not recollect, I believe, who the persons were that were using them?—Yes, one.

Who was that?—His name was Pearce.

Having seen these knives when in company with Green, and he was making this declaration, did you apply to him about a knife, or did he show you a knife of that same construction?—It was in consequence of the conversation I learned; when I saw five or six of them with knives of the same description, an observation was made by one of the company that they were bread and cheese knives, and upon that observation there was a smile; I looked upon them as harmless instruments certainly.

Did you learn from Green what number of these knives he had sold?—I asked where they were to be bought, and I was told I might get them of Mr. Green; I asked where Mr. Green lived, they told me in Orange-street; there was a man from Sheffield in the box whose name I do not recollect, his person I well know.

Lord Chief Justice Eyre.—Did you know where Green lived at that time?—I did not, I asked where they were to be bought; one of the company said at Mr. Green's; I asked where he lived; they said he was a perfumer and hair-dresser in Orange-street, Leicester-fields.

Did you go to buy one?—In about a week after I did.

Did you learn from Green what number of these knives he had sold?—I think he said two or three hundred; Mr. Green told me to speak very low, for the parlour-door was open which was adjoining the shop, and he smiled and said, for my wife is a damned aristocrat.

Did you attend afterwards a meeting of your division, which I think was No. 2, in Compton-street, on the 28th of April?—I cannot recollect exactly the day, but I believe I attended regularly.

Do you recollect any observation made by Pearce, respecting those knives, and the use and convenience of them?—At the meeting at Chalk-farm he did.

What did he say about the convenience of these knives?—He said, if you strike with

them they will not fly back, or words to that purpose.

Pearce is a person whom you are sure you saw using one of these knives at Chalk-farm?—I am very sure of that; there was a man from Sheffield, who found fault very much with the construction of these knives.

What was the fault he found with them?—That they were made in a bungling manner, that they were not equal to those made at Sheffield.

Did he mention that there were many others of a similar construction made at Sheffield?—He did.

You say you do not recollect the day of the month?—No.

Were you present at any meeting, when any subscription was made for doctor Hodson?—Yes.

Where was any subscription for this doctor Hodson proposed when you were present?—In the division.

Do you recollect when that was?—I do not recollect the date of that.

Was such a subscription proposed?—There was.

Was any thing collected under that subscription?—That I cannot say, I think to the contrary; I think they said he had been relieved; I am bound to speak the truth, and therefore must certainly add this to it, that the application for relief was rejected on the ground of the violence of that person's conduct, and I think there was another reason if my memory is right; he was not considered as a member of the London Corresponding Society.

I believe you were present at the dinner at the Crown and Anchor-tavern, on the second of May?—I was.

Before I go to that, I will just ask you as to one meeting at an earlier period, the 25th of February 1794. Do you recollect being present at a division-meeting, when any address from Stockport was read?—Yes.

Have you that address about you?—I do not think I have.

Lord Chief Justice *Eyre*.—What day?—In the month of February.

Mr. *Law*.—Can you ascertain at what part of the month?—No.

What was the number of your division?—No. 2.

I thought that had been the number of the house?—Number three was the number of the house, No. 2, the number of the division.

Look at that paper, and say, whether that is the paper that was read at the meeting in February last, at your division?—This paper I am very sure was delivered; I need not look at the contents, because there are my initials upon it.

[It was read.]

"RIGHTS OF SWINE;

"An Address to the Poor.

"Printed in the year 1794.

"I also will show mine opinion.

"Hard indeed must be the heart which is unaffected with the present distress experienced by the poor in general in this commercial nation. Thousands of honest and industrious people in Great Britain are literally starving for want of bread; and the cause invariably assigned is a stagnant commerce. My opinion on this subject will perhaps appear to some a strange phenomena—it is, that a stagnant commerce is not the *real* cause of the want of the necessaries of life among the laborious poor. And I am confident, that, while the 'Earth yields her increase,' there is a method founded on JUSTICE and REASON, to prevent the poor from wanting bread, be the state of trade whatever it may.

"In the first place, then, I will ask, what are the principal sources of human subsistence? Certainly corn and grass. Corn is moulded into many shapes for the use of man, but chiefly into bread, which is the staff of life; and from grass, we derive our flesh, milk, butter, cheese, &c. besides wool and leather, which, I think, with the addition of coal, and a few other minerals nearly make up the real necessities of life.

"I ask again then, who is so infatuated as to say, that the growing of corn or grass, is dependent on, or connected with, the prosperity or adversity of trade? Certainly (thank Heaven!) they are not affected by the devouring sword, or ruined commerce (except at the seat of war).—Corn grows not in the loom, nor grass upon the anvil! Why is it, then, that while there is plenty of bread the poor are starving? Is there not as much grain in the land as when the trade flourished? Suppose trade were to rise immediately to an amazing degree, would it make one grain of corn or blade of grass? Certainly not. Why then, I ask again, are the poor, who are the peculiar care of Him who delights to do his needy creatures good, not satisfied with the good of the land?

"The following reasons are at least satisfactory to myself:—Because, in the time of national prosperity, house and land rent (consequently provisions) are always raised by the wealthy and voluptuous, till they are, at least, at par with high wages; but, when War, or any other cause, has ruined or impeded commerce, and reduced wages, rents and provisions remain unabated. The poor calico-weavers in the vicinity of Manchester, notoriously illustrate this argument, as they are now (they who can get any) working for fifty and sixty per cent. less wages than at this time two years back, and the necessaries of life are rather augmented in their prices than diminished!!!

"Hearken, O ye poor of the Land! While great men have an unbounded power to raise their rents and your provisions—and, at the same time, an uncontrolled power to make War, and consequently to dry up, or diminish, the sources of your income, your subsistence will, at the best, be precarious, and your very



existence often miserable!—The present want of bread amongst the poor, is not owing to the want of grain in the world, nor, I presume, in this land, but owing to the price of it being excessively above the price of labour. When, therefore, the price of labour cannot be brought up to the rate of provisions, provisions should be reduced to the rate of labour. Till this is practicable, the poor are miserable!

"During the last twenty years, mechanical wages have been varied, according to circumstances, several times, and not unusually in some branches, twenty, thirty, forty, and even fifty per cent—I mean on the lowering, as well as the rising side of the medium. But, with regard to *land-rent*, its variations have always been progressive; and to find a single instance to the contrary, would be almost, if not altogether, impossible!

"It requires but little sagacity to see, that the Game Laws, Riot-act, Laws against Vagrants and Felons, &c. &c. are made chiefly for the security of the *rich* against the depredations of the *poor*. But what security have the *poor* against the oppression and extortion of the *rich*? Certainly none at all. As every comfort of life is derived from land, and as the *rich* are the proprietors thereof, it may in some sense be said, that they hold the issues of life and death; and, whilst they can, uninterruptedly, raise their rents without limitation or restraint, they have an alarming and unbounded power over, not only the happiness, but even the *lives* of the great mass of the people—the *poor*!

"If, then, statesmen have a right to advance their lands in times of prosperity, the *poor* ought to have a parliament of their *own choosing*, invested with power to reduce them in days of adversity. This balance of power between the *rich* and the *poor*, would be productive of a thousand times more consolation to this nation, than the chimerical nonsense of court jugglers, '*the balance of power in Europe*.' Nor can I imagine that any judicious person would call such a power in parliament unjust or irrational, which, when exercised, could ruin none, but bless millions! If it would be cruel to make a statesman of twenty thousand pounds per annum, live a year or two upon ten thousand; how much more remorseless is it, to make the Spitalfield and Norwich weavers, as well as some hundred thousands more, live upon nothing—or, what is little better, upon *charity*! Besides, it is a curious truth, that the very article which ruins hundreds of the voluptuous great, would render happy the innumerable unhappy part of mankind!

GREAT GOD! What spectacle so affecting to a reflecting mind as Great Britain in her present state! On the one hand, we see the impudent nobles advertising their "*Grand Dinners*," in the very face of the hungry poor, whom they have ruined!! On the other hand, widows, orphans, and others are weeping, and often dying for want of bread!

What can be more odious in the sight of heaven, than feast and famine in the same nation? Yet this is literally the case in this kingdom, at this moment, and not only in the nation, but in every town, in every street, yea, often under the very same roof!

"Open your eyes, O ye poor of the land!—in vain are your hands and your mouths open! Do you not see how you are cajoled and degraded, by the paltry subscriptions made for you, at different times and in various parts of the nation; which serve only to make your slavery more servile, and your misery of longer duration? I revere generous subscribers and collectors, but I scorn the means! Ye poor, take a farther look into your rights, and you will see, that, upon the principles of reason and justice, every peaceable and useful person has a right, yea, a "*Divine Right*" to be satisfied with the good of the land! Besides, is it not monstrously provoking to be robbed by wholesale, and relieved by retail! Look again, and you will see that public collections, subscriptions, and charities, are nothing more than the appendages of corruption, extortion, and oppression! If the benevolent Father of the universe did not send amongst mankind provisions enough, and more than enough, such is the waste of the great and the gluttonous, that many of you poor, would get none at all! Say not, therefore, ye oppressed, "*there is a famine, or scarcity of provisions in the land!*" It would be false. The land contains plenty; and if provisions were (as they ought to be) reduced to your wages, you would enjoy your unquestionable right, a comfortable sufficiency.

"But, besides the destruction of your trade, and the means of subsistence, you have the mortification to see your bread eaten by dragoon and hunting horses, spaniels, &c. and your parental, affectionate, loving, provident and tender guardians, can give you a good reason why—it is their own!

"Hearken! O ye poor of the land! Do you fret and whine at oppression—'yes'—Then, as ye do, so did your fathers before 'you'—and, if you *do no more*, your children may whine after you! Awake! Arise! arm yourselves—with truth, justice and reason—lay siege to corruption; and your unity and invincibility shall teach your oppressors terrible things! Purge the Representation of your Country—claim, as your inalienable right, Universal Suffrage, and Annual Parliaments. And whenever you have the gratification to choose a representative, let him be from among the lower order of men, and he will know how to sympathize with you, and represent you in character. Then, and not till then, shall you experience universal Peace and incessant Plenty.

"A FRIEND TO THE POOR.

"Stockport, Jan. 5, 1794."

Mr. Law.—I think you say you were present at the dinner at the Crown and Anchor

on the 2nd of May?—I was, if that was the day the dinner was had.

Were you admitted by any ticket?—I was. Who furnished you with that ticket?—The preceding evening, between the hours of nine and ten, Mr. Hardy came to my house, and brought me a ticket; I think 7s. 6d. marked on it. I put my hand in my pocket thinking I was to pay, he said no, there is nothing to pay for this ticket.

By whom did you understand those tickets were given?—I had no conversation with him upon that subject at all.

Lord Chief Justice *Eyre*.—At what time did he bring it to you?—Between the hours of nine and ten o'clock.

Lord Chief Justice *Eyre*.—Where?—In Crown-court, Covent-garden.

Mr. *Law*.—This was a meeting of the Constitutional Society?—I understood it to be a meeting of the Constitutional Society with a certain number of the London Corresponding Society, who were invited to that dinner, and Mr. Hardy brought me a ticket unknown and unexpected.

Did you go as a member of the Corresponding Society?—I did.

Do you know what number of those tickets were delivered out for the Corresponding Society?—I think, if I may presume to guess—

Do you know what number of the Corresponding Society there were there that were not members of the Constitutional Society?—I think I may say twenty.

Do you recollect before dinner any news coming of any particular public event, and what was said in the society upon that?—There was some news of some public event.

Was it good or bad news to this country?—I understood it to be very bad news.

In the Constitutional Society, and in this assembly, consisting of members of both societies, was there any joy shown, or otherwise?—There seemed universal satisfaction, and it was carried about the room seemingly with great eagerness.

Was there any song sung that you recollect by the name of the Free Constitution?—It was delivered to me before dinner in a room adjoining the dinner-room, by a person who delivered them round to all the people there, as far as they could go, I believe.

Did you see any papers of any sort laid upon the plates in the room?—I recollect now there was a paper on the plates.

Was it of the same sort with the one you have stated to have been delivered in the outer room?—I cannot say.

Lord Chief Justice *Eyre*.—Have you got it?—I have not.

Mr. *Law*.—You cannot say whether the paper laid on the plate was the same as the song or not?—I cannot.

Who was in the chair at that dinner?—I understood Mr. Horne Tooke—No, I believe Mr. Wharton, and even in that I do not

know that I am correct, but I think so, Mr. Wharton—

Was Mr. Horne Tooke there?—He was.

Do you know lord Daer?—I do.

Mention the names of any persons you particularly remember to have been present?—Mr. Horne Tooke, Mr. Wharton, a gentleman whom I saw in court just now, of the name of Birchall, Mr. Sharp, whom I have known many years, an engraver; there were several members of the London Corresponding Society.

Do you know Mr. Frost?—Yes; he was there, and he sat close to Mr. Tooke.

Lord Chief Justice *Eyre*.—Were those members or visitors?—I cannot undertake to say, I did not belong to the Constitutional Society.

Mr. *Law*.—Was Mr. Hardy there?—Mr. Hardy was there.

Do you know Thelwall?—He was there.

Richter?—Yes.

Lovett?—He was there.

Was Moore there?—Yes.

Pearce?—Yes.

Was Jones there?—Yes.

He was a member of the London Corresponding Society I believe?—There are several Jones's.

Lord Chief Justice *Eyre*.—Does much turn upon the names?

Mr. *Law*.—No.—What songs were sung, do you recollect? do you know a song by the name of *Ca ira*?—That was not sung as I recollect, but the moment the company got into the room, the music struck up *Ca ira*.

Before dinner are you speaking of?—I think all the time we were at dinner; I think it played *Ca Ira* almost from beginning to end; it was encored time after time.

Do you recollect the music of any other song that was played?—Yes, the *Marseillois* march—the *Carmagnol*.

Did the company seem to be pleased with the music, did it meet with any applause?—I never heard such an universal din of approbation in the course of my life; it was nothing but a scene of clamour, for I do believe most people's hands smarted, and their ears ached.

Do you recollect any particular toast drank after dinner?—I do not.

Do you recollect none of the toasts?—I cannot charge my memory.

Do you recollect any particular address that was made to the company then present, by Mr. Horne Tooke?—That I do.

State, as far as you can, the words, if not the words, the substance of that address?—I will; some time after dinner Mr. Horne Tooke got up, and silence was called, and he prefaced his address by an observation that, I believe, one out of fifty in that room might be considered as a government spy, and to them he wished particularly to address himself; and, in consequence of that address, I must confess I did attend; in consequence of his addressing himself to government



spies, I certainly did attend to what he said; for my idea of a spy and informer may differ particularly in a business of this nature.

To the best of your recollection, what was it Mr. Horne Tooke delivered in that address?—He begged the company to take notice, that he was not in a state of inebriation; for having something to say to the company, he had taken care to refrain from his glass; and for fear of being mistaken, and being taken to be in a state of intoxication, he begged every body present to take particular notice of what he said; he called the parliament a scoundrel sink of corruption; he called the opposition in parliament a scoundrel sink of opposition; he said, that there was a junction between those two scoundrel parties, formed for the purpose of destroying the rights and liberties of the country; he began to speak about the hereditary nobility; he asked, if that skip-jack, Jenkinson, could be considered as one of the hereditary nobility of the country; and I think, if my memory is right, that he paid the same compliment to the House of Lords that he did to the House of Commons.

Lord Chief Justice *Eyre*.—Do not speak about compliment.—What did he say?—That there was a junction between the ministerial party, and the opposition in the House of Lords.

Lord Chief Justice *Eyre*.—Do you mean that he said the same thing of the House of Lords as of the House of Commons?—Yes; he said it was in order to amuse, or abuse, (he used one of these words, I am not sure which word) that poor man, the king.

Lord Chief Justice *Eyre*.—What was in order to amuse?—The junction between the two parties.

Mr. *Law*.—Was any thing farther said by him?—I do not recollect; yes, I think he said likewise, that the junction of the opposition in parliament with the aristocratic party in the House of Commons, was likewise meant to abuse and deceive the people of this country. The junction of parties in the House of Commons, to abuse the people of this country.

Did he mention any thing farther respecting the king?—I cannot say.

Did he state what was the object of his address, or of his measures?—I do not recollect.

How was this address of his received?—With applause,—with great applause.

Was any song sung to the tune of God save the King?—There was.

Do you recollect Mr. Horne Tooke's saying any thing respecting the song that had been sung to that tune?—I cannot recollect.

Lord Chief Justice *Eyre*.—Was it the song of God save the King?—No; a song to the tune of God save the King.

Mr. *Law*.—Do you recollect Mr. Tooke's singing, or reciting, any lines of a song to that tune?—You have recalled something to my memory that I had forgot—if I am right,

Mr. Horne Tooke sung that song; or he sung an additional verse, which he said had been forgot.

What did he supply?—I do not recollect the words.

What was the name of that song? you said that a song, intituled the Free Constitution, was delivered to the members before dinner?—Yes, and I do not know whether there was not one put upon each plate; if it was not that, it was something else; Mr. Horne Tooke sung that song.

Do you recollect the first line of the song that was sung to the tune of God save the King?—I do not.

Mr. *John Groves* cross-examined by Mr. *Gibbs*.

Pray what are you?—I have followed the business of conveyancing for these twenty-two, or twenty-three years.

Then you are a lawyer?—If you call that a lawyer.

Is conveyancing the only branch of the profession that you have followed?

*Groves*.—As an attorney do you mean?

Mr. *Gibbs*.—Are you an attorney?—I never brought or defended an action, in my life, as an attorney.

You may tell me whether you are an attorney or not?—I am not.

Are you a solicitor.

*Groves*.—In Chancery?

Mr. *Gibbs*.—No, I did not mean in Chancery, you have been long enough in the law to know the meaning of the word solicitor;—are you a solicitor of any sort?—Yes.

Where?—I have been here.

Why then, you are solicitor at the Old Bailey?—Yes.

Could not you have said so at once; you understood perfectly well what I meant?—No.

When I asked if you were a solicitor, and you asked if I meant in Chancery, I told you I did not mean in Chancery?—I thought you meant a solicitor in Chancery.

And you really did not know the meaning of my question?—I did not know.

You had not the least idea that I meant to ask, if you had been an Old Bailey solicitor? It did not occur to me.

It did not occur to you, upon my asking you the question, that you had been an Old Bailey solicitor?—I did not say that; but I gave you what I thought an immediate answer. I really did not know the term as applied to me as a solicitor.

You really did not know but that I meant to ask you whether you were a solicitor in Chancery?—What was the first time that you were at any of those meetings?—On the 30th of January.

How came you to go then?—I was sent by a gentleman.

By whom?

*Groves*.—I am afraid it is proper I will

Mr. Gibbs.—If it be improper I will not ask it.

Groves.—If it is a fair question I will answer it directly.

Lord Chief Justice Eyre.—There can be no imputation upon you for answering the question;—if you decline answering, that is another thing; it exposes you to no difficulties, or penalty, or any thing of that sort.—None; it is only a point of delicacy. I am ready to give an answer, I have not the least objection on my part.

Mr. Law.—My lord, I take it that the channels for information must be protected.

Mr. Attorney-General.—The court of exchequer never would permit that question to be asked.

Lord Chief Justice Eyre.—Upon a general principle I do not know whether it ought to be answered.

Groves.—It was a person high in office under his majesty; but permit me to add, I was not desired by that gentleman to conceal his name.

Mr. Gibbs.—Then where is the delicacy of it?

Lord Chief Justice Eyre.—He has said what is proper and material for your purpose: that is, that he went there, being employed for the purpose of collecting information, with a view to the disclosure of it.

Mr. Gibbs.—I will not press the question farther than your lordship thinks I ought— I leave it to the discretion of the Court if it is thought not proper.

Lord Chief Justice Eyre.—I do not think it is proper.

Mr. Gibbs.—Then you were desired by a person, high in office, to go to this place;—how arose your connexion with that gentleman?—My connexion with that gentleman has been for these ten years; that is so far as having the honour of being personally known to him.

What sort of connexion had you with him?

Lord Chief Justice Eyre.—It is hardly proper that the history of a connexion of that kind should be disclosed here.

Groves.—That gentleman would not employ me in any thing dishonourable, nor would I accept it.

Mr. Gibbs.—I dare say you would not.

Lord Chief Justice Eyre.—You find he went on purpose to give information of what passed; that is the only fact that is material for the prisoner; the rest is private intercourse, which may involve in it the consideration of a thousand other things, which may be material to the government of the country. I think it not proper to be disclosed here, it is not necessary to the cause.

Groves.—I have had the honour of his confidence ever since I have known him.

Mr. Gibbs.—Then trusting in you, he sent you to the Globe-tavern on the 20th of January, 1794?—Certainly.

Then you never were at any of those meet-

VOL. XXIV,

ings but in the character of a spy?—As you call it so, I will take it so.

Mr. Gibbs.—If you were not there as a spy, take any title you choose for yourself, and I will give you that.

Mr. Law.—He did not state any title.

Mr. Gibbs.—I did not desire you to take any title in the sense that gentleman is using the term; you object to the term spy, as I called you, and I bid you take any other name.

Lord Chief Justice Eyre.—There should be no name given to a witness on his examination: he states what he went for, and in making observations on the evidence, you may give it any appellation you please. You recollect I made the observation before, when Mr. Erskine did the same thing.

Mr. Gibbs.—I really did not feel that I was going at all out of the way in the cross-examination of a witness, in calling him by a name which suits his character, though he does not like it.

Lord Chief Justice Eyre.—Go on.

Mr. Gibbs.—You went then (not to call you a spy) to these meetings in the character of a person who had no other reason for going there, than that of picking up what information you could, and carrying it again to those employers, in whose confidence you were?—Certainly.

Then I must express your employment by that periphrasis. You said there was a great assembly there?—There was.

There was a considerable meeting you said; and universal suffrage and annual parliaments were talked of?

Groves.—Which meeting do you speak of?

Mr. Gibbs.—I am speaking of the meeting to which you first went.—There was a very large meeting, so much so that the floor broke down.

You have been giving an account of some conversation that passed there; cannot you recollect who the persons were that had that conversation?—No, I do not know; there was an universal conversation.

You going there for the purpose of collecting evidence against individuals, and coming now to give evidence against an individual, you thought it not material to observe who the people were who then used this language.—You, a gentleman used to practise at the Old Bailey, and meaning to give evidence afterwards against those persons, did not think it material to learn by whom these conversations were held?

Lord Chief Justice Eyre.—Mr. Gibbs, I am sorry to interrupt you, but your questions ought not to be accompanied with those sort of comments: they are the proper subjects of observation when the defence is made. The business of a cross-examination is to ask to all sorts of acts, to probe a witness as closely as you can; but it is not the object of a cross-examination, to introduce that kind of *guise* as you have just done.



Mr. Gibbs.—Send to Mr. Erskine, he is in the parlour.

[Mr. Erskine immediately came into court.]

Mr. Erskine.—Will your lordship give me leave to say, it is the universal practice of the Court of King's-bench, the first criminal court in this country, in which I have had the honour to practise for seventeen years.—We are certainly permitted to go as far as this. I agree with your lordship in what you just now said (and it will be of no consequence whether I did or no, because your lordship must give the rule) but what I take my learned friend to have said to the witness, is this: you, sir, not meaning it as an insult to the witness, but you, sir, as a practiser at the Old Bailey, must know the necessity, if you go to any place to get evidence, of having proper materials for that evidence; how do you account for not having done that? In a cross-examination, counsel are not called upon to be so exact as in an original examination—You are permitted to lead a witness.

Mr. Gibbs.—I desired Mr. Erskine to be sent for into court, as I wished to have the testimony of a gentleman who has practised in that court more than any man now present, that I was not departing from the practice which has obtained there.—My end is now answered in desiring Mr. Erskine to come into court.

Mr. Erskine.—I can appeal to one of the learned judges now upon the bench. I remember that when Mr. Garrow first came to the situation, which undoubtedly he fills with a great deal of ability, I objected to a question he put on a cross-examination, and when it turned out that it was upon cross-examination, the laugh was turned against me, and I had nothing to say.

Mr. Justice Buller.—Undoubtedly the practice has increased much within my memory: what Mr. Erskine alludes to now has been universally the practice; that when you are upon a cross-examination, you are permitted to lead a witness more than you can on an original examination; but be so good as recollect the mode in which the lord chief justice put it yesterday, and I do not think in Guildhall, or any where else, you ever departed from that. You may lead a witness upon a cross-examination to bring him directly to the point as to the answer; but not to go the length as was attempted yesterday, of putting the very words into a witness's mouth, which he was to echo back again.\*

Mr. Erskine.—Having done that yesterday, I immediately bowed to the admonition I received from my Lord Chief Justice.

Lord Chief Justice Eyre.—I should be extremely sorry if it should be supposed that I mean to make an observation that seemed to press personally upon either of the learned

counsel who are now for the defendant, and particularly on the gentleman who is now cross-examining this witness, and more particularly if it were supposed I was capable of doing that in the absence of the other counsel; I hope that will never be imagined of me.

With regard to the point, I think it is so clear that the questions that are put are not to be loaded with all the observations that arise upon all the previous parts of the case, they tend so to distract the attention of every body, they load us in point of time so much, and that that is not the time for observation upon the character and situation of a witness is so apparent, that as a rule of evidence it ought never to be departed from; but it is certainly true that it does slide into examinations, and that it is very often not taken notice of, and it saves more time frequently to let it pass than to take notice of it; but there is a rule to which all those sort of things, if once an appeal is made to the Court, ought to be brought, and my judgment is, that after you have got the particular facts upon which that sort of observation is founded, the examination ought to proceed to the other facts upon the case, and the observations upon those former facts ought to make part of the defence.

Mr. Gibbs.—My reason for sending for Mr. Erskine was because I knew it had been the practice, and I think I have observed it in the course of this cause on the other side. What Mr. Justice Buller has said, that it is a practice that has gone on to a greater length than it ought, I hope, will be an excuse for me, because I am more inexperienced in the profession than Mr. Erskine or Mr. Garrow. If that mode of examination prevails on one side, especially against a defendant—

Lord Chief Justice Eyre.—I will never suffer it to prevail on either side; but as far as I would indulge it, it should be on the part of a defendant.

Mr. Gibbs.—Your lordship does not suppose, I trust, than I sent for Mr. Erskine with any other view than I have mentioned, I confess I feel myself sensibly mortified.

Lord Chief Justice Eyre.—I am extremely sorry for it, I never wished to mortify you.

Mr. Gibbs.—I think you told me that you were a gentleman who practised at the Old Bailey, do you now practise here, or have you left off that practice?—I have not left it off.

You now practise at the Old Bailey?—I have not for some time.

How happens that?—Not this six months—

Your reason for not having practised is that no business has been brought to you, I presume?—Certainly, you are right there.

Did you or not think it necessary, at this meeting, to attend to the particular persons from whom the conversation that you are now stating, proceeded?—At that time I was a total stranger almost to every one in the room.

You did not endeavour to find out who was said by one man to another?—I did not.

\* See the cross-examination of George Widdison, ante, p. 659.

You say the language was universal suffrage and annual parliaments?—Yes.

Can you tell me who used that language?—I cannot, it was the general language.

Who used it you cannot tell?—No I cannot.

How many people might there be there?—as many as the room could contain, and it was a large room; I should suppose if I said four hundred people, I should speak within bounds.

You cannot recollect any one particular person who held this language you have been speaking of?—I cannot: we were in two rooms there; the first room we were in broke down, which occasioned us to go up stairs.

You were afterwards at Chalk-farm, I think you say?—I was.

There you went under the same employment, and for the same person?—Exactly so.

You seem to have fixed yourself a good deal upon Mr. Thelwall?—No, Mr. Thelwall fixed himself upon me.

It was involuntary then?—Quite so, for at that time I hardly knew Mr. Thelwall.

You would rather have declined it?—No, I did not say that; that is going too far; he and I were standing at the door, in Store-street, together, when there were not above ten or a dozen people there, and then the paper being stuck up, that the meeting would be held at Chalk Farm, he said, "come along."

Was that the first time you had conversed with him?—I had conversed with him several times.

Did he know who you were?—I do not believe he did.

He had no previous knowledge of you?—He had none of me, nor I of him.

Had you any introduction to him?—None.

You had no previous knowledge of him, nor he of you, no introduction to him, no common friend who told each that he might trust the other?—No, I do not recollect that ever such a conversation passed between me and any man in the world.

But all this that he said to you was voluntary?—What passed between him and me was in going to Chalk-farm, which was the first time in my life I ever spoke to him; it was voluntary.

I think you say that at Chalk-farm there was a clamour that spies were there?—Certainly.

And Mr. Thelwall was for admitting them all?—He was, and desired them to hear; and, I believe, I may add something further, now you have brought it to my recollection: he said, it would give the minister the power of judging of their proceedings and their numbers.

You said so before. I believe you yourself made this cry against spies, did not you? you yourself said you thought there were spies among them?—O yes! I did say that, and thought myself very justifiable in so doing.

Yes, yes, that was a scheme you had learned in your practice certainly; you were the person then who suggested that there were spies from the Treasury there?—No, I was not; there was a person present, I was asked if I knew him; I said, yes, I did.

Did you say you knew him to be a spy?—I was asked who he was, and what he was, and I said, I did think he was a person employed by government.

Who was he?—His name was Walsh,

And you seeing Mr. Walsh there, said, you thought he was a person employed by government?—I was applied to by several to know whether it was not Mr. Walsh; I said, it was, and that I believed he had some employment about government; and I believed Mr. Walsh did not wish to conceal it, for upon his buttons there was, I believe, the King and Constitution, so that he did not wish to conceal it.

Because Mr. Walsh came there with King and Constitution upon his buttons, you chose to say that you thought he was a spy, was that so?—That was not the reason, because he had the King and Constitution upon his buttons, for that might have been put on.

Well, seeing him there with King and Constitution on his buttons, you chose to say that you thought he was a spy from the Treasury?—No.

Then do tell me how the fact is?—The fact is, I was applied to by two or three to know if I knew Mr. Walsh, I said yes, and he was pointed out to me; I said that is Mr. Walsh, certainly; somebody made answer, who I cannot say, he is just come from Ireland, where he has been upon some government business; I was asked if I knew any thing of his being employed by government, I said immediately, I do believe he is.

Did not you say you believed he was a spy?—I do not think I did.

Will you swear you did not say, that you believed he was a spy?—By my saying that I believed he was employed by government, I meant to say, that he was a spy.

Then you do consider that the term spy, is to be applied to those employed by government?—If you take it by implication that a man employed by government is a spy, it is so.

No; it is your own interpretation of the words?—Then you have it that way, I confess it so far.

Then you did say you thought he was a spy?—Yes, so far as giving information.

It was after that, that Mr. Thelwall said he was for admitting all spies?—Certainly, Mr. Thelwall did say so.

This was a very large meeting, was not it?—It was large.

Had you no apprehension for your friend, Mr. Walsh, saying, you thought he was a spy, at such a meeting?—He is no friend of mine.

He was not a man, I suppose, whom you wished to have torn to pieces?—No, nor any man in the world.



Were not you a little apprehensive of holding him out as a spy, a man you knew nothing of?—No; I was for admitting all spies too, and to let them remain there unmolested.

But though you might be for letting spies, that were there, continue, I want to know why you pointed out a particular man as a spy?—I did not point out a particular man, I was applied to if I knew him, and I was taken to one end of the garden to look at him, and I said that is Mr. Walsh, certainly.

Did not you say you believed he was employed by government?—I did.

Employed by government to be there?—I did not say that.

But was not that your meaning?—I did mean that.

Then why are you fencing with me?—I am not fencing.

You represented him to be a man sent there by government, in the same way as yourself?—Yes.

What induced you to point out this man?—I was desired to point him out.

Did you believe him to be so?—I did.

I want to know whether you, going there, as what you call yourself, a spy, how you came to point out to the people, that were there, another person whom you also believed to be a spy?—There was good reason for that, because, if I had not said he was sent there as a spy, I should have been suspected myself: the fact was too notorious to be denied, and if Mr. Walsh was here he would not deny it.

With King and Constitution upon his buttons?—I think there was at that time.

What number of people do you think were there at this time?—I should think between two and three thousand; there was a vast number, I believe, that were there out of curiosity, but, as far as I am able to judge, there were not above eight or nine hundred of the London Corresponding Society there.

You say, that sitting down to eat some bread and cheese, there was something that you called little instruments taken out, and it turned out that these were French knives?—Yes, in the shape of French knives, made in this country I presume, as many of them are.

I know they are very common things?—As common as any thing certainly, and I believe a great many people use them for safety to their hands.

You went to Mr. Green's in Orange street, you say?—Yes.

He told you he had sold two or three hundred of these, but told you to speak very low as the parliament was open, and his wife was a damned Aristocrat?—He certainly used these words.

You are positive to these particular words, that he said his wife was a damned Aristocrat?—I am, and we both of us laughed.

What did you laugh at?—At the lady's being an Aristocrat.

I think you told me you were at the dinner on the 2d of May, at the Crown and Anchor?—Yes.

How many people might there be there?—I should think there must be five hundred in all.

You went there in the same character, I suppose?—Assuredly.

You say there was some piece of news brought—a newspaper brought in?—I do not know whether a newspaper was brought in, but there were accounts brought in that some of the Allied Powers had received a very great check.

You do not know whether there was any newspaper brought in?—I do not; I must add this, that I was very much surprised indeed when I went into the Constitutional Society---I there saw a number of most respectable gentlemen.

Then at this meeting that you are speaking of, there were a number of very respectable gentlemen?—Indeed there were.

How did you get there?—I have told you by a ticket Mr. Hardy brought to me; I offered to pay for it, he said they were not to be paid for.

What number did this meeting consist of?—I dare say near five hundred; I think three hundred and fifty or four hundred sat down to dinner.

You are not sure, I think you say, who was in the chair?—I am not, but if I may presume to think upon the subject, it was Mr. Wharton.

You must not presume to think?—Then I am not certain, and I will give you the reason; we went into the room, and there was a little bustle, and who was put into the chair I cannot say, but I consider Mr. Wharton to be in the chair; but whether it was him or Mr. Horne Tooke, I cannot tell.

Whichever it was, I suppose he sat at the head of the table?—There was a row all along, and they sat at the head of the table.

Then I think you say Mr. Tooke made a speech, in which he reflected upon the House of Commons?—Yes.

You say he called the House of Commons a sink of corruption?—He called the House of Commons a scoundrel sink of corruption.

He spoke of there being a junction between the two parties?—He called them a scoundrel opposition.

I do not want you to repeat any offensive expressions that he used against individuals, but I think in speaking against the hereditary nobility, he spoke generally of a particular person?—He did, and he spoke of more than one.

I believe he spoke highly of the hereditary nobility of the country?—He did.

He spoke highly of the hereditary nobility of the country as contra-distinguished from adventurers?—Most assuredly, he paid hereditary nobility of the country every compensation that a man could pay.

I believe he observed, likewise, that the hereditary nobility, of whom he spoke so highly, had lost their influence in the state, by

the introduction of adventurers?—I do not know that the word adventurers was made use of.

By the introduction of those then who were not the hereditary nobility?—The new nobility.

He had before been declaiming against the House of Commons, certainly, using an improper expression, however, calling them a sink of corruption?—Yes.

Did he not say, likewise, that those new nobility were introduced into the House of Lords by means of those people whose conduct he was finding fault with in the House of Commons?—I think his sense was the same; I have no hesitation to say that his sense was the same.

Did he not also speak highly of the office of the King in the Constitution?—I am very clear he did, because he said, that the new-made peers, or those lately introduced into the House of Lords, either had combined, or were combining for the purpose of amusing that poor man, the king.

Did he not mention it as matter of complaint, that the king had lost his due weight in the constitution, by means of this corruption that he had been complaining of before?—I understood him completely so; I do not know one word that Mr. Horne Tooke said disrespectful to his majesty.

Did he hold out any thing as matter of complaint in the now existing constitution, except that there was a sort of people introduced into the House of Commons whom he disapproved of; and by their means likewise a sort of persons introduced into the House of Peers, whom he disapproved of; and that they, acting together, restrained the due power of the crown?—I believe that was the object of all his conversation.

Mr. John Gurnell called again.

Where did you find that paper?—In Mr. Hardy's house.

[It was read.]

"Tune, Vicar of Bray.

"I.

"Why should we vainly waste our prime,  
Repeating our oppressions?

"Come rouse to arms, 'tis now the time

"To punish past transgressions.

"Tis said that Kings can do no wrong;

"Their murder'd deeds deny it;

"And since from us their pow'r has sprung,  
We have the right to try it.

"Chorus, Come rouse to arms, &c.

"II.

"The starving wretch, who steals for bread,

"But seldom meets compassion,

"And shall a crown preserve the head

"Of him who robs a nation?

"Such partial laws we all despise;

"See Gallia's bright example;

"The glorious sight before our eyes,

"We'll on every tyrant trample.

"Come rouse, &c. &c.

"III.

"Proud bishops next we will translate

"Among priest-crafted martyrs:

"The guillotine on Peers shall wait,

"And Knights we'll hang in garters!

"These Despots long have trod us down,

"And Judges are their engines;

"These wretched minions of a crown

"Demand a people's vengeance.

"Come rouse, &c. &c.

"IV.

"Our Juries are a venal pack,

"See Justice topsy-turvy;

"On Freedom's cause they've turned a back,

"Of Englishmen unworthy:

"The glorious work but once begun,

"We'll cleanse the Augean stable:

"A moment lost, and we're undone,

"Come, strike while we are able.

"Come rouse, &c. &c.

"V.

"The golden age will then revive;

"Each man shall be a brother;

"In peace and harmony we'll live,

"And share the world together.

"In virtue train'd, enlighten'd youth

"Will love each fellow creature;

"And future ages read this truth,

"That man is good by nature.

"Come rouse, &c. &c."

Mr. Erskine.—If the jury will look at the back of it, they will see this song was sent in a letter to Mr. Hardy by somebody or other.

John Thomson sworn.—Examined by Mr. Attorney General.

Did you find any thing in the possession of a person of the name of Hillier?—I did.

When?—On Monday the 19th of May.

Produce it.

[The witness produced a pike, with a blade two feet two inches long.]

William Camage called in again.—Examined by Mr. Attorney General.

You told us yesterday that you were at Edinburgh when the Scotch convention sat and was dispersed?—Yes.

You knew Maurice Margarot, did not you?—Yes, I saw him in the Tolbooth, in Edinburgh.

Did you ever see any knife in his hand?—I saw one laid upon the table, which Margarot said was his.

Describe that knife.—It appeared to be a knife that opened with a spring between the haft and the blade: the knife and blade altogether was nine or ten inches long.

Was it easy or difficult to shut when it was once opened?—It was very hard to shut; I could not shut it myself.

William Camage cross-examined by Mr. Erskine.

Are you a Sheffield man?—Yes.



Had you ever seen any knife of this description?—No.

Had any body else a knife of this sort?—No.

Was any thing said about it at this time?—No.

Was it concealed?—No, it was laid for him to get his dinner with.

Then Margarot did not make any secret of this knife?—No.

How many people were present in all?—There might be about six or seven.

Did it strike you at the time that there was any thing wrong in it?—No, I did not apprehend any thing of danger in the knife when I saw it, only it was a curious knife, and he showed it to me upon the table.

Publicly?—Yes.

Are you a cutler?—No, an ink-stand maker.

Was this at the time the Convention was holding at Edinburgh?—No, afterwards; he was then in the Tolbooth.

And he ate his dinner with it?—Yes.

*George Lynam* sworn.—Examined by Mr. *Bower*.

Were you at any time a member of the London Corresponding Society?—Yes.

At what time did you become a member of the London Corresponding Society?—In October, 1792.

Where did you first see any division of the London Corresponding Society?—At the sign of the Mansion-house, opposite to the Mansion-house.

Which of the divisions of the London Corresponding Society met at that house?—The division No. 12.

When you went first into the room, did you receive any paper of any kind?—Yes.

What was the paper you received upon going into the room?—It was the Rules of the London Corresponding Society, and the London Corresponding Society's Address.

Address, of what date? Is it an address to the members, or to the nation, or what?—It was the Society's Resolutions, and Address to the public at large.

Lord Chief Justice *Eyre*.—What date has that address?—I do not immediately recollect; but if one was handed to me, I could recognise it; but I think it is in March, 1792.

Is this one of the papers?—It is a larger pamphlet than that.

Upon receiving that paper, did you give any intimation of any kind to the master of the house?—Yes; I told him I believed it was a society ———

In fact you intimated, that there would be danger there; then in consequence of some intimation, no matter what, that you gave to the master of the house, was that division of the society adjourned to any other place?—It was adjourned the next evening to the Crown, in Newgate-street.

Did you attend at that meeting?—I did.

Was it there that you were accepted a member?—It was.

Did you become a member of that division that night?—I did.

Was the prisoner, Hardy, a member of the same division of the London Corresponding Society that you were admitted a member of?—No, he was not; he did not belong to that division, but he belonged to the society.

Were you present at any time afterwards at any other division?—I was.

Where was that, and what was the number of the division?—I beg leave to look at my minutes that I made from time to time.

Did you make these minutes at the times to which they respectively refer?—Yes, I did.

Then you may refresh your memory by them. What was the next meeting at which you were present?—The next meeting I attended was at the sign of the Unicorn, in Covent-garden on the 29th of October.

How many persons might be present at that meeting?—I cannot exactly say; but there was a very large company; the room was full; there might be about seventy or eighty people.

Was the prisoner at the bar one of them?—Yes.

In what character did the prisoner appear there?—As secretary, I understood.

Who were the delegates at that meeting?—Being a young member at that time, I had not made myself informed of the names of the delegates, nor the number of the divisions.

Lord Chief Justice *Eyre*.—Was this a committee of delegates?—This was a meeting of the division, No. 2.

Mr. *Bower*.—Did Mr. Hardy, while you were there, take any part and what? were any reports made by any body?—There was brought forward at that time Tom Paine's Address to the French People, and it was voted to be published and delivered to all the divisions.

Was any thing more said or done at that meeting?—Yes.

By whom?—I don't know that.

What was done next?—Tom Paine's Letter to the People of France, already published, to be delivered out, and the Rights and Duties of Man to be continued weekly.

Are these minutes of resolutions that were passed that night?—Yes; the delegates had received letters from the Manchester and Sheffield Societies, approving of the London Corresponding Society's Address to the French Convention—Reported that two thousand and upwards had signed it at Norwich—The Crown and Anchor approve of it, but would send one of their own; thinking the more addresses that were sent to the Convention the better.

Who were present besides the prisoner?—A great many.

W<sup>t</sup>

the divisions is thus: the delegate of the division attends the business that has been transacted at the committee of delegates, and he makes a report of what letters and what resolutions were brought forward and agreed to.

That was the mode of doing the business?—Yes.

Was there any thing more passed at that meeting?—That seems to be all that I have made any memorandum of.

Do you recollect any thing more, or do you not?—That is all I recollect at that meeting.

Who made that report that you have been speaking of at the last meeting?—I cannot charge my recollection who it was, and therefore I would not speak. The next meeting was of the division, No. 12, at the Crown, in Newgate-street, on the 31st of October.

Who was present at that meeting?—Mr. Hardy was not present.

What was done at that meeting?—At that meeting the address to the French Convention was reported by the delegate that was brought forward on the 27th of September at the Unicorn.

Did any thing more pass there?—I have made a remark of nothing more than that; I fancy there was nothing of any consequence. The next meeting was at the Rainbow, in Fleet-street, on the 2nd of November.

Lord Chief Justice Eyre.—What division was that?—I have not got the number of the division, and I do not immediately recollect it.

Lord Chief Justice Eyre.—It was not your own division, No. 12?—No, number 12 was the division I entered into; it was not that, but another division; to the best of my recollection it was No. 11.

Mr. Bower.—Did any thing material pass at that meeting?—The delegate reported, that the company at Stockport had wrote to Sheffield of their approbation of the different meetings. The editor of the Sheffield paper wrote to the delegates, that it would be a good plan to send London delegates down to teach the farmers politics. A letter from a meeting just formed at Nottingham, addressed to the delegates—I am inclined to think that letter was not read. The next report was, that there were six honorary members admitted at the Crown and Anchor.

Admitted to the Constitutional Society, do you mean?—Yes; that is the whole of that meeting. The next, division, No. 12, at the Crown, Newgate-street, November the 14th.

Mr. Bower.—I will prove by the paper in my hand, that Mr. Hardy was the delegate of division, No. 2; because your lordships will have a good deal of evidence of what passed in the division of which he was a delegate.

Lord Chief Justice Eyre.—You said you did not know who was the delegate?—I will not take upon myself to be certain, but believe I should be right if I said that Mr. Hardy was delegate at that time, for that division.

[Mr. Lauzun called again.]

Mr. Bower.—Did you find that paper [showing it to the witness] among Mr. Hardy's papers?—I found it in Mr. Hardy's house.

Alexander Grant.—I believe that is Mr. Hardy's hand-writing.

[It was read.]

"London Corresponding Society, at the Unicorn, Covent-Garden, Monday, October 1, 1794.

"Resolved, That Thomas Hardy, division No. 2, be appointed our delegate to the standing committee of the several divisions, and to continue in office for three months.

(Signed) "ALEXANDER LOWRIE, chairman."

Indorsed, "Division No. 2, delegate, Thomas Hardy.

"Number of members, 120."

Mr. Bower, to Lynam.—Whether the person who made the report at that meeting, on the 29th of October, at the Unicorn, was the delegate?—Surely so.

Mr. Bower.—Now go on from where you left off.

Lynam.—The next meeting was at the Crown, in Newgate-street, on the 14th of November.

What passed at that meeting?—Nothing material I fancy; I have no minute of any thing.

Pass on to the next.—I return back again here to a meeting at the Unicorn, November 12th.

Of division, No. 2. ?—Yes.

What passed at that division?—There was read a letter, written by Mr. Barlow—his address to the Convention, very inflammatory, and there were very loud plaudits at the reading.

Who made the report that night?—The delegate reports, the report is always made by the delegate.

Lord Chief Justice Eyre.—Was that a letter addressed to the division, or communicated by the delegate as coming from the committee of delegates?—As coming from the committee of delegates, and it was Barlow's Letter addressed to the Convention of France. The next is a report by somebody to the meeting, that the London Corresponding Society in London, in number, was six thousand; that the division, No. 14, meeting at Spitalfields, was increased, and would soon be equal in number to all the rest of the divisions of the society. The first meeting of the London Corresponding Society, I was informed, was at Mr. Robert Boyd's, No. 11, Exeter-street, and that he had the first resolutions of the society; I was shown one, dated the 2nd of April, 1792:—A letter from major Johnson, of Edinburgh; he does not approve of the Address to the Convention, but was framing a paper to inform the public on politics, and would send one soon to the society.



How was that letter conveyed; was that to the division, No. 2, at the Unicorn?—Yes; the London Corresponding Society's address received by the National Convention, and ordered to be published and sent to the eighty-three departments.

Is that a report of what had been done in France?—A report by the delegate, of their Address to the National Convention of France being received, and that by the Convention it was ordered to be published and sent to the eighty-three departments in France:—The society at Sheffield sent up their Address to the Convention to the delegates, who had forwarded it; that is the whole at that meeting.

Had sent up their Address to the committee of delegates?—Yes, and they had forwarded it to the Convention.

Is that the whole of the minutes you have of what passed at that time?—It is. The next meeting was at the Crown, in Newgate-street, No. 21, division No. 12: It was at this division mentioned, that there was a talk of a congress to be held in Scotland. The next thing that was done, was to read judge Ashhurst's charge to the grand jury. Reported, that a society at Norwich wanted to know, if we meant to come into the duke of Richmond's plan, or to rip up monarchy; they suspected that this was to draw them into some unguarded expressions, and declined answering. Reported, that the delegates had wrote to the society at Sheffield, and at Edinburgh. The next is, the branching off of the new division, from No. 12; the branching off was on the 21st of November, and this new division took No. 23, and met at the Ship in Moorfields, on the 27th of November.

Were you a delegate of the new division, or did you continue in the old one?—I was chosen delegate of this first meeting on the 27th of November; it was recommended to inform the public that we were not levellers, and it was recommended to avoid riot or resistance to the laws.

Lord Chief Justice Eyre.—Were the reasons for that recommendation stated?—There was, at the time, but I did not make any memorandum of it, but it was on account of the magistrates interfering with their meetings, and some of the publicans had been threatened to have their licences taken away; in consequence of that, this was a recommendation of the division.

Lord Chief Justice Eyre.—Was this a recommendation to you from the committee of delegates, reported by your delegate?—It was a conversation—it was a recommendation of the division that it should be carried by me to the committee of delegates. Reported, that in Edinburgh, the first characters belonged to the cause, had formed themselves into a society, and called themselves a Convention of Delegates, and it was resolved to subscribe for the defence of any prosecuted member and his family.

Lord Chief Justice Eyre.—You do not

mean a regular report, but that this was conversation?—It was conversation. The next remark that I have got, is—a meeting of delegates at the Sun, in Windmill-street, on the 29th of November; it was agreed to change the house weekly.

Were you present at a meeting of the delegates that day?—Yes, there were twenty-two delegates met.

Was any paper, or any proposal brought forward there?—The division, No. 11, had received twenty visitors from Islington; a society was intended to be formed there.—The sub-committee brought forward their answer to the Crown and Anchor, but it was referred back again to that sub-committee.

What Crown and Anchor declaration was that referred to?—The meeting of delegates must have had a letter from the Constitutional Society, which must have been read, and answered before I became a delegate; so that what it was I cannot tell.

Mr. Bower.—When you talk of the Crown and Anchor, do you mean the Society for Constitutional Information at the Crown and Anchor?—Yes;—there was one presented by counsellor Vaughan, a visitor from the Constitutional Society; he offering an answer, it was read and approved with some alterations; there were some parts of it that were objected to, and these words were—

Lord Chief Justice Eyre.—Was counsellor Vaughan present?—Yes; he was a visitor from the Constitutional Society; the address that he brought forward was approved with some alterations, a part of the alteration was "*dic in the cause.*"

Putting in or taking out those words?—Both.

Lord Chief Justice Eyre.—Did you mean that you struck out, or added those words?—Struck them out;—but, however, there was something there said in justification of those words, by something that passed in Cromwell's time, about a brewer being made a colonel.—It was agreed that this should be put in the Sunday's paper if possible, and five hundred large bills printed and stuck up about the town, that we are not levellers, and one to be sent to each division.—Mr. Vaughan most strongly recommended good order and peaceable conduct.

Mr. Bower.—You say you do not know what the paper was to which this was an answer, or where it came from?—I did not see that; but this answer, that was read that night and approved of, was brought forward by counsellor Vaughan, and these words were erased out, but were attempted to be justified.

Do you know from what society at the Crown and Anchor that came?—The Constitutional Society.

It was an answer to something received before you were a member?—Yes;—if our funds were low the Constitutional Society would print for us.

Who said that?—Mr. Vaughan said that;

it was then reported that many enemies to the society had endeavoured to get into the society.—At this meeting it was reported that five divisions had been scouted, that is prevented meeting at the places where they usually had met.—Maurice Margarot made a motion to write to Mr. Pitt and the attorney-general, that if our meetings were illegal he would surrender himself;—this was over-ruled, and it was agreed to support all prosecuted members, and recommended to all the divisions.—

Mr. *Erskine*.—You wrote this down at the time?—Yes.

Mr. *Bower*.—Did you receive that note from the prisoner Hardy? [showing a paper to the witness.]?—Yes, I did.

[The paper read.]

“December 4, 1792.

“Citizen Lynam, you are requested to meet the Special Committee this evening, at seven o'clock, at the Nag's-head, Orange-street, Leicester-fields.—I am your fellow citizen,

“THOMAS HARDY.

“Please to inform any of the delegates near you that you know, but no one else.”

Addressed “To Mr. Lynam, No. 31, Walbrook.”

Did you in consequence of this notice go to the place where that note required you to go?—I did; but have no memorandum of any thing that passed.

Have you any recollection of what passed?—I have not.

Were you present at a meeting of any of the divisions, upon the 11th of December?—Yes: Division No. 23, December the 11th.

At what place?—I fancy it was at the Brown-Bear, in Moorfields, but I have not got it down.

What passed at that meeting?—It was reported at that meeting that the London Corresponding Society's rules were introduced among the soldiers.

Have you read as far as you have taken minutes of the 11th of December, at the Brown-Bear, in Moorfields?—There were no new members admitted.

Was any thing material done there?—It was reported that colonel Dalrymple, of Edinburgh, was determined to have a parliamentary reform; it was reported likewise, that the Irish were scouted, as we had been; that they had applied to the council, who had declared their meeting to be legal.

To the council?—Yes.

Was it explained what council?—The privy council in Dublin. A motion was then made that as the finances of the divisions are low, as they cannot print the Address, the divisions are recommended to subscribe. Three members of this division declared, at that time, that they would stick them up about the town.

What address was it that they were then talking about?—I fancy that must have been

VOL XXIV.

the Address to the Constitutional Society, but I have not got the memorandum, whether it was that, or what it was.

Was it the address that was produced by Mr. Vaughan?—I rather think it was. There was a report here, that Baxter, who was a delegate of the division, No. 16, was at the meeting at Shoreditch Church, that he opposed the meeting, and that he was laid hold of; and that in consequence of that, seeing he could not resist, he put his hand into his pocket, and pulled out many of the society's addresses, and threw them with a good deal of exultation among the people assembled there, and he complained that he was very ill used, his coat torn, and he struck several times in the church-yard.

What meeting was that?—That was at Shoreditch Church.

What time are you got to now?—The 11th of December.

Do you know what that meeting was for?—It was a meeting to support the constitution of the country.

Now come to the 13th of December?—The next meeting was at Round-court, in the Strand, on the 13th of December; that was a meeting of the delegates.

How many delegates were at that meeting?—Eighteen.

Was the prisoner there?—He was there.

What passed at that meeting?—It was there reported that the magistrates were after Littlejohn, and that he is now going to Scotland. That has nothing at all to do with it, that is not of any consequence—a Mr. Field was chosen assistant secretary. A motion from the division, No. 4, that a letter should be wrote to the common council of London, to be wrote by the secretary, to whom it was referred. Mr. Ridgeway was to publish Mr. Margarot's letter to the secretary of state, and the receipt from the post-office; that receipt from the post-office was to be taken in my name, and in Mr. Field, and Mr. Bell's names.

What letter are you now speaking of?—Mr. Margarot's letter to Mr. Secretary Dundas.

Lord Chief Justice *Eyre*.—What was that about the receipt from the Post-office?—It was directed that the letter should be carried to the post-office by myself, Mr. Field, and Mr. Bell.

Lord Chief Justice *Eyre*.—What letter was to be carried to the post-office?—Mr. Margarot's letter to Mr. Secretary Dundas.

Mr. *Bower*.—Were you to take a receipt there to show you had carried it there?—Yes; if Mr. Bell had any objection to have his name in the receipt, the receipt was then to be in the name of three of the delegates of the London Corresponding Society.

Is that a copy of Mr. Margarot's letter to Mr. Dundas?—[Showing it to the witness.]—This is the letter.

Lord Chief Justice *Eyre*.—Where was Max-



garot at that time?—He was at this meeting.

Mr. Bower.—It was put into the General Post-office, though the party was in London at the time?

Lord Chief Justice Eyre.—Is that a common thing?—It was done at the request of Mr. Margarot, that the society might be satisfied that this letter was sent; and, therefore, instead of sending it down to Mr. Secretary Dundas's office, it was determined to put it into the General Post-office, and then there was no doubt but that it would go safe.

[The letter read.]

"London, 4th December, 1792.

"No. 10, High-street, Marybone.

"Sir;—Honoured with, and happy in the confidence of a number of my countrymen, I have their request to transmit *officially* to his majesty's ministers, two addresses joined in one, and containing together the reasons why we have associated for a parliamentary reform, and the legal and peaceable methods by which we hope to maintain it.

"So sanctioned, I must also inform you that this letter, and these addresses, equally speak the sentiments of some thousands of industrious citizens, in this capital; and of a far greater number dispersed throughout the island, there not being a single corner of it (Rotten Boroughs excepted) but cries aloud for reform.

"Confiding in the justice of our claim, in the merits of our peaceable demeanour, and our ready obedience to all the laws of our country, we imagine ourselves clear from all charge or imputation of sedition, rebellion, conspiracy or treason; and that in pursuing what no one can deny to be our *right*, we are entitled to every protection and support of government.—I therefore, in behalf of my fellow citizens, this day call upon the king's ministers to protect and uphold us in the pursuit of our *constitutional* rights; and require, that in future, our lawful and well regulated assemblies, may be no more disturbed or interrupted by the saucy interference of usurped authority, by men unnamed, working with threats upon the fears of uninformed publicans, and boasting of *SECRET* orders and warrants—as though Britain was fallen under a despotic government, and liable to be ruled, not by laws, but by proclamations, and to be subservient to ministerial dictates, written on a drum head, and proclaimed by the mouth of the cannon.

"Equally known by his activity as by his knowledge of the laws, an honest magistrate, whose *spies* had well informed him of the nature of our meetings, has acknowledged that they were *peaceable*, innocent, and *CONSTITUTIONAL*, and further admits the necessity of a reform:—at your hands, sir, I therefore, demand justice and protection for the society against all ruffians, who, let loose on the public, have dared, or shall henceforward dare, like the *stellites* of ancient sanguinary ty-

rants, assume to themselves the double office of making laws and executing them. Certain that such an iniquitous system cannot originate in a British cabinet, we exclaim, may perdition light equally upon such vile miscreants, and upon their employers!

"Were we, according to the hackneyed custom, to recur to precedents, we should say, that Mr. Pitt, and the duke of Richmond, have themselves traced out the path which we now pursue, that they themselves have asserted the rights of Britons, to a fair, equal, and adequate representation in parliament—that they, themselves, had invited us to associate and discuss our rights; and we might add, that in so doing, they spoke, they acted like honest men—they were not then in office.

"But the *Rights of the People* being ever the same, such precedents and such supporters are superfluous. However, as things seen through the medium of power, have a very different aspect from what they were when those worthy gentlemen were on the other side of the question, it is not altogether improbable that severities may be had recourse to, to quell that desire for reform which they themselves have raised.—Should that be the case, I beg it as a favour, or rather, being in the foremost rank, claim it as my right, that the attack may commence upon me. Whenever extraordinary measures may be adopted, I earnestly wish to be the first of the society in feeling the effects of them, and shall deem it not a proud, but an honourable day, in which I shall be called upon to plead the cause of my fellow citizens against oppression.

"Claiming protection, I have a right to your answer, either to refuse or to grant it—in either case it shall be made public.—as shall also your silence, should you not attend to this letter, expressing the request of many thousand citizens. Our country shall then judge us both.—I am, sir, your very humble servant,

"MAURICE MARGAROT, Chairman  
to the committee of delegates of the  
London Corresponding Society, united  
with a view of obtaining a *thorough* par-  
liamentary reform.

"The honourable Henry Dundas, secretary of  
state for the home department, &c.

"Delivery at the General Post-office.—

"Witnessed 5th December, 1792."

This was directed to be printed?—Yes.

And this was one of the copies that were printed?—Yes; a motion was then made to recommend to the committee to consider the case of all members being prosecuted, to be supported by every division, and a committee was formed for that purpose.—Division, No. 1, recommended, that it be represented to the public that confusion may be expected, but that if riots ensue our societies will aid the magistrates, and that copies be sent to the

magistrates; but take care that we say that there is not the least disposition appears of committing any riot, and that we will persevere in a parliamentary reform. If the prosecuted person is found not to have been rash in words or in violence, a proper person to protect by the society.

Lord Chief Justice *Eyre*.—What was done upon this?—I do not know that there was any thing done, there were many things agitated in the committee.

Lord Chief Justice *Eyre*.—This was a recommendation from the division to the committee—what did the committee do upon it?—It was approved of in the committee, but I do not recollect that there was any thing done by the committee in consequence of that recommendation.

Lord Chief Justice *Eyre*.—Have you any memorandum of its having been approved?—It was approved of, if it had not been approved I should have made a memorandum at the time.

Lord Chief Justice *Eyre*.—You know if it was carried into execution there would have been copies to be sent to the magistrates; was there any direction that copies should be sent to the magistrates?—There was not. The delegate of division, No. 2, desires to bring forward the cards in red print, and to be oval.

*One of the Jury*.—What are they?

Mr. *Bower*.—The new tickets.

*Lynam*.—Each member to give up his old ticket, or to be admitted again anew, paying up his quarterage, and to allow no member but what pays up to the quarter—to be binding to all the divisions—not to be allowed tickets till the quarterage be paid up—received two letters, one from Norwich, signed Cozins, secretary, saying, that there were meetings held there as well as at other places to support government; and they ask in that letter whether the London Corresponding Society signed at those meetings for the support of government; it was directed by Mr. Margarot that this letter should not be taken notice of to any of the divisions.

Sign what?—Sign to the support of government.

Lord Chief Justice *Eyre*.—Was it resolved that it should not be communicated to the different meetings?—It was upon Margarot's proposition. Then there was a letter dated the 15th from Paisley, that they were willing to correspond with us—twelve societies formed in August for a parliamentary reform. Then there was a letter from Edinburgh, of the 11th of December, to call a convention of all Scotland, to be of the same opinion; the title of that society was, "The Friends of the People." Archibald East Hodge, president; W. Reed, secretary.

Lord Chief Justice *Eyre*.—Is this the society that wrote the letter?—Yes; it was recommended by several delegates to correspond with the Friends of the People, at Free-

mason's tavern; their letter saying, that they would be very glad to correspond with them as they are in the same way of parliamentary reform, wrote by Margarot to Mr Stuart, No. 15, Frith-street, Soho. The next is a division meeting, No. 33, Crown-street, the 18th of December; nothing passed there. The next meeting is the 20th of December, No. 31, Compton-street, a meeting of delegates.

Mr. *Bower*.—How many attended?—Eighteen delegates met.

Was the prisoner there?—He was; two members deputed from the Constitutional Whigs to know if the London Corresponding Society would address the Friends of the People. Baxter recommended to take his case into consideration, he being prosecuted for his resistance at the meeting at Shoreditch church. Division No. 12, recommended to petition parliament before Mr. Grey brings in his bill for a parliamentary reform.

Was Baxter supported?—He was not, but his matter was brought forward afterwards; inquiry was made, whether we corresponded with the societies formed at Ipswich and at Woodbridge, the answer was, no. Mr. Martin recommended not to publish any thing, the times won't do; he says that you cannot oppose the treasury. Then Baxter brought forward a motion from his division, No. 16, for the delegates to consult and to determine whether they will sign the Crown and Anchor address—it was determined to be left to the discretion of each individual, but it was recommended to avoid signing it if possible.

Lord Chief Justice *Eyre*.—Do you know what address that was?—It was the society at which Mr. Reeves presided. There was an answer sent to Cozins of the Norwich Society, by Mr. Margarot, that we will not sign any of the meetings, and desired them to find out some way of communication; they sent a reply, that they had sent five guineas in order to have Mr. Fox's speech sent down by the Expedition.

Mr. *Erskine*.—What speech?—In the House of Commons.

Mr. *Erskine*.—Upon what occasion?—On a parliamentary reform, and to send them by the Expedition. They are to publish some hand-bills, and show that they are not disheartened, and are determined not to sign but persevere. Five hundred copies of Mr. Fox's speech; fifty of Margarot's letter to Dundas; fifty of John Bull to Thomas Bull were sent down. A motion was made by division 16, that each division present a ticket gratis, to any soldier that will be agreeable to enter, but caution them at the same time when they were admitted of the danger—this was not agreed upon, but referred for a week.

Mr. *Bower*.—Is that of the same date, the 20th of December?—Yes. A motion from division, No. 23, that it is the opinion of this society, that this society do publish our determination, and our readiness to assist the magistrates, and that we would persevere in a



parliamentary reform—agreed that Margarot do draw it up against the next meeting. There came forward a petition from William Carter, who was employed to stick those bills up, that he had lost a place of twelve shillings a week.

Do any directions appear to be given in consequence of that?—He says he was confined three days and two nights, but Martin says only one day.

Mr. Bower.—You have omitted there something respecting Carter, look back to your minute of the 20th of December?—No, I have not—it was referred for a month. Martin was employed for the defence of William Carter, and there was a subscription then made for that defence; at that time division, No. 12, subscribed a guinea and a half; No. 18, fifteen shillings; No. 11, five shillings. There was an intimation at that time that Ridgeway would publish any thing the society should send to him—he mentioned the duke of Richmond's letter, and said that he would print that or any thing they sent.

Information from whom?—Some one of the delegates. Baxter's business was brought forward again; Martin informed him that his recognizance was not entered at Hick's Hall; he was ordered to withdraw his recognizance himself, and then he could not be held himself again to bail in that action, but there was not any thing done in that; it was then said that Mr. Fox had gone as far as we can expect, but we do not look upon him to be more honest than others, and think he has been forced to avow himself so strongly in the House, and it is necessary to have a head.

Necessary to have a head for what?—To the plan that was carrying on—it alluded to the whole.

Mr. Erskine.—Have you any note of that last observation—who made the last observation?—Margarot. Gay, a printer, belongs to the society, but he denies it; he employed William Carter to stick up the large bills in the morning, instead of the evening, which was the reason why he was taken up—this was reported at that time by Martin. The next is No. 31, Compton-street, 27th of December, a meeting of delegates.

Was the prisoner present?—He was present. It was then recommended that each delegate take the opinion of each division of the propriety of admitting soldiers, and upon what terms.

One of the Jury.—Was this a meeting of delegates?—Yes.—The next meeting was a meeting of delegates. No. 31, Compton-street, on the 3d of January, 1793: Margarot, chose president; Hardy, secretary; Field, sub-secretary.

Was any thing done there?—It was proposed that each member should pay a penny each night if he introduced a visitor, to pay at the division he attends, and then to be discharged, paying at his own division. Mr. Durant, a stranger, acquainted us of Thomson's distress.

Who was Thomson?—A man that lived by Coventry-street, I forget the name of the place; he was gone off to France at that time, I think.

His distress upon what occasion?—The wife's distress, in consequence of his being obliged to leave London, being one belonging to this society, a very violent man, and he was therefore sought after; it was represented that the rent was not paid, and that she was quite distressed with three children, Thomson gone to France, the rent owing, nine guineas.—Mr. Harvey, an attorney of the Temple, her friend—sixteen delegates met, and collected in the whole 12s 6d. for her, and it was to be recommended to each division, but as a body they do not assist any body—I there was a motion came forward then, for a declaration to the public, but objected to by two divisions, saying, power supersedes the laws, or, as it suits them, leaves those laws dormant—rather have a constitution without a king than a king without a constitution.

A declaration of what?—I have not got it down here, and I do not recollect what it was: it was some declaration to the public—rather have a constitution without a king than a king without a constitution:—This we say, if reduced to be republicans.

Lord Chief Justice Eyre.—Who proposed to publish that declaration?—This was a matter that was brought forward by some one of the delegates at the meeting, upon every thing of that sort that was proposed, the opinion was taken of every delegate, one after another, and in the course of taking that opinion, there were two of the divisions, or two of those delegates, that objected to it.

Lord Chief Justice Eyre.—Did that stop it?—I do not think any thing was done in it.

Lord Chief Justice Eyre.—Was it according to the course of the business, that if two divisions objected, the measure was stopped for the time?—No, only by the majority.—Mr. Margarot then reported, that we had had no letters for two months, except one he had received that day, but the seal was opened and it was sealed again; it was then mentioned there were five delegates from the Roman Catholics, that they were of the same meaning with us, and it was agreed to try and see if we could not settle a correspondence with them.

Mr. Bower.—Five delegates present that day?—No.—it was reported that they were in London, Irish Roman Catholics.

Delegates from Ireland?—Yes, then in London.—The next is the meeting of the division No. 23, January 8; I have it down here, that the declaration, which is, I suppose, the declaration mentioned before; that division met at No. 33, Crown-street, Moorfields.

Was the prisoner there?—No; I have got down here, that the declaration; it is the opinion of this division that it should be rejected—it was agreed, likewise, not to address the king at all.

Is that a declaration of the principles of the society?—The declaration mentioned in the last meeting, I cannot tell what it was; it was said that Mr. Grey would not bring forward his motion for a reform, unless petitions were sent to parliament; agreed to petition parliament by all means, and not to address them.

Mr. Erskine.—Repeat that?—Unless the several societies petitioned.

Lord Chief Justice Eyre.—And they agreed to petition by all means?—Yes.—The next is a meeting of the 10th of January 1793, at No. 31, Old Compton-street, seventeen delegates attended; the declaration was ordered to lie upon the table; then it was agreed upon that no written papers should come to a meeting of delegates but by a delegate, or through the treasurer or secretary; carried unanimously.

Mr. Bower.—Was Mr. Hardy there?—Yes; I do not remember Hardy being absent one night; Mr. Margarot then reported, that the country correspondence did not shine.

What do you mean by shining?—That there were but very few letters.—He reported that he had sent a letter to the Friends of the People at Free-Masons' tavern; the answer was read on the 15th of December, accepting our correspondence, that a reform by perseverance will be obtained.

That is the answer from Free-Masons' tavern?—Yes; and that they revered the constitution for protecting persons and property, and recommending us to be careful not to mix foreign politics with home politics, and to avoid foreign correspondence, by which means they would prevent the imputation of levellers, and would prove that we are otherwise inclined; signed, D. Stuart, secretary, No. 52, Queen-street, Dean-street: it was then remarked that this society never had brought forward their principles, and it was determined not to correspond with them; Mr. Bell, one of the delegates, in consequence of the remarks that were made upon this letter, made this observation:—Our addresses to the Convention of France, prove, that we mean their laws here.

Was that assented to or dissented from, or what was the conduct of the committee upon it?—It was not objected to; it was approved by all the meeting.

Recollect whether any person present made any observation upon that?—Mr. Margarot said, no doubt; but there was not any body else that objected to it; it passed with the silent assent of the rest of the company.

Did Mr. Margarot say any thing else as to what should be the conduct of the society?—At that time they were under a good deal of difficulty, being disturbed in their meetings, and a vast deal of very strong language had been held both then and at former times, and afterwards too.

You do not recollect whether he said any thing more than that?—Not particularly; it was observed by some one of the delegates,

that Mr. Pitt's plan to add a hundred members to the House of Commons would not do, for that would still give them more advantage, and keep us from a proper reform; Mr. Gerrald then said, he knew a person of the name of Dolon, who was secretary, and one of the Irish delegates too, and that he was gone off to Ireland; that he knows his address; he explained to him our endeavours, of which he approved, and he proposed to correspond with him; he said the Catholics had succeeded entirely; Bell had a friend that he knew, whose name was Devereux, one of the delegates, and he agreed to correspond by the post—however, that was said to be dangerous, as no letters go through the post-office.—That is the whole of that meeting. The next is the 14th of January at Mr. Hardy's.—Mr. Hardy had sent fifty of our addresses, and twelve of Keirsant's speeches.

Keirsant's speech where?—In the French Convention.

Who told you Mr. Hardy had sent them?—He said himself that he had sent fifty of our addresses, and twelve of Keirsant's speech in the French Convention, to different correspondents in the country.

When you speak of addresses, what do you mean?—I mean of the original address of the society.

Lord Chief Justice Eyre.—This was a conversation at the prisoner's?—Yes, I called upon him; this I had from him at his own house in conversation. The next is a meeting of delegates on the 17th of January.

How many attended?—I fancy I shall come to it afterwards.

Where was that meeting?—At No. 31, Compton-street; it was then reported, that nineteen of the divisions were kept up at that time; it was then agreed upon to debate, and to consider whether or no the age of eighteen or twenty-one was the most proper age for allowing of voting for a member of parliament, and one reason given why eighteen was the proper time of life to have a vote, was, it was mentioned that they were liable at the age of eighteen to be militia-men.—A motion was made by the delegate of division 18, to appoint a committee and report Carter's case, and his family, and of the money necessary for their support: division No. 12 recommended to consider of a public meeting to discuss a parliamentary reform, but that was referred back again; the delegate of No. 15 recommended the society's addresses to be given, five to each member, for the purpose of delivering them out to the public; the delegate of division No. 4, made a motion, that the thanks of this society be conveyed to the mayor of Glasgow, a society at Durham, and a society at Dundee, for uniting with us in our intentions, and that it be recommended to correspond with them;—sixteen delegates met; a petition from Carter presented—he is sentenced to six months imprisonment, to pay a fine, and find sureties; it was a remark of



Margaret's, that it was supposed it would be for life; a committee appointed to inquire into the expense of his defence, and the manner in which it had been conducted by Martin; a motion then was made, for all the delegates to meet every Saturday evening for public conversation, paying a-penny each for the room—agreed to, and to be when Carter's business is done; this public conversation was to discuss politics for the purpose of informing themselves of the situation of the then times, and what steps were pursued in the House of Commons. The next is January the 17th.—A letter from Norwich, that they admired our spirited conduct very much—that they wrote to Mr. Grey on the 11th instant, and to the Friends of the People—the Friends of the People propose a mild reformation—they want to know if they are friends—that the societies are numerous, and in the country the magistrates prevent their increase; signed, Blake,—that is, the letter received was signed Blake:—Benjamin Hobhouse,\* esq. at Bath, had formed a society agreeable to ours; he advised us to point out a conveyance, and he would inform us how they went on—it was agreed to send a letter by the post—if it was not answered, then to send to a Mr. Richards, bookseller, at Bath; then it was recommended to correspond with the Societies at Norwich, through the means of the Bell Society.

What is the Bell Society?—Some society, I believe it was at Norwich:—January 24th, No. 31, Compton-street, there were two gentlemen came with a petition, which was drawn up, as it was supposed, by Mr. Harvey of the Temple—one of them was a delegate, who formerly had been delegate for No. 11, saying, Mr. Thompson's house had been searched in the dead of the night—Mrs. Thompson relies upon our support, as promised—it was then determined that no such promise ever had been made to her—she wanted assistance to go to France—Hardy said, he had given her 2*l.* 15*s.* 6*d.* on the 5th instant, and then she thanked him—Martin thought it should be rejected, but it was agreed to—Martin then reported, that he had an *ex-officio* from the attorney-general, and he might be as much an object of the support of the delegates, and of the divisions, as she; upon Martin's examination, he drew up a long brief, and showed it to Mr. Vaughan, who had no objection to defend it—afterwards he said it was indelicate to defend it, it being his own writing, and he wished it not to be known—it was recommended to apply to Mr. Erskine, but he declined it—then Mr. Garrow was applied to, he was found averse—then it was recommended to Mr. Fielding, he declined it—then Mr. Warren undertook it—Martin said, that Grant was the sole cause of Carter's punishment, he had got the manuscript of the bill, and he declined looking for it—Martin wanted to see it destroyed—it was then determined

that Field, the sub-secretary, should apply to Grant, and if he did not give it up, that he should be expelled the society, and then he would be expelled as our honorary visitor at the Crown and Anchor tavern.

Lord Chief Justice *Eyre*.—What manuscript is that?—The manuscript of the bill, which was stuck up by this Carter, which he was imprisoned for: it was mentioned then that Littlejohn, likewise, was an honorary member, and that he would also be expelled; Martin then said, that he had seen Carter, who said that he had got, in his pocket that which would do for the delegates—It was then determined that he should not receive his guinea a week after this, unless he asked pardon, and the manuscript was given up by Grant.

Mr. *Bower*.—Who should not receive a guinea a week?—Carter should not receive a guinea a week which he was allowed by the society. Motion from division 16, to address a letter to the Friends of the Liberty of the Press, for their exertion at the Crown and Anchor, the same people as met there under Constitutional Information. A letter from Norwich to be answered, but it was not read. A letter from Richter, saying he dare not attend us, but that we may depend upon his being a friend: he carried the address to Grant. The delegates are to meet next Thursday, No. 8, Queen street, Seven-dials. The delegate of the division (I think No. 5) is going to France, and he has got some copies of T. Paine's works; he received a letter on Tuesday night from a friend at twelve o'clock, saying, "a hint to the wise, you will all be taken up."

Was Hardy present?—Yes. The next is a meeting of delegates on the 31st of January. A motion brought forward by the delegate of division No. 16, which was Baxter, wishing that six-pence may be paid only to the society, and the other seven-pence to go towards the expense of their room, it was agreed that this might be a very proper measure to be adopted for poor divisions; it was particularly remarked that at that time the people round Spitalfields were exceedingly numerous, and supposing that they should come to any open resistance these were divisions that ought particularly to be encouraged.

Mr. *Bower*.—Repeat that slow?—A motion was brought forward by the delegate for No. 16, Baxter, wishing that six-pence (a quarter, it should be) may be paid only to the society, and the other seven-pence that was paid, to go towards the expense of their room; it was agreed that though this might be very proper in all poor divisions, it was remarked at that time, and it was assented to by the whole meeting of delegates, that supposing there should be an opposition, or that the two parties in fact should come to an open declaration, an open rupture, that it was absolutely necessary to give encouragement to the divisions meeting in Spitalfields, for that they

\* In 1812 created a baronet.

in general were very poor, and very numerous, and it was very necessary to keep them together. There was a good deal of conversation upon the necessity, and the propriety of it.

Have you all that in your minutes?—It is from recollection that I speak this—but this is the meaning of what was agreed upon by all the delegates that met at that time, but it was particularly first of all mentioned by Baxter.

Lord Chief Justice *Eyre*.—How much of it have you a minute of?—I have got no further than that it was agreed by the delegates that this might be very well in poor divisions, the other is recollection which I remember perfectly well; I have made a remark before of these divisions, that they increase so fast, that they were well satisfied that, in these divisions alone, very shortly they would have as many in number as there were in number in all the other divisions besides. A motion was made by the delegate of division No. 7, that Mr. Law's letter to Mr. Reeves, giving his reason for withdrawing himself from them, be published, to show the infamy of their proceedings, that the society was falling away very fast; but this motion was rejected, and instead of that, to publish extracts from "The War, or who pays the Reckoning?" deferred the selection for one week. Our letters to the Friends of the People, are directed to Mr. Byng, chairman of the committee, they have directed their secretary to answer it—their answer is to keep from foreign politics, to keep good order, and by petition we may succeed.

*One of the Jury*.—Whom is that from?—This is only giving an account to whom our letters were directed when they corresponded with the Friends of the People, there is an answer at this time wherein it advises us to keep from all foreign politics, to keep good order, and by petition we may succeed; this was answered by Maurice Margarot, saying we mean to proceed orderly, but you are not explicit.

Did Margarot say any thing, make any observation as to the committee of delegates?—Yes.

Lord Chief Justice *Eyre*.—Does your minute purport that that reply was produced at this meeting of delegates, that it was produced upon that day?—I will not be confident of that.

Lord Chief Justice *Eyre*.—Go through your minute and see what it is?—It was answered by Maurice Margarot, saying, we mean to proceed orderly, but you are not explicit.

Mr. *Erskine*.—Do you mean answered in writing?—In writing; there were several letters that were wrote by Margarot himself without being shown to the delegates, and after he had wrote them, when he came to the meeting of delegates he reported that he had wrote such a letter, and he gave the heads of such letter. He said to that society, but you are not explicit, and he requested that

they would be more particular; your concurrence will assist us, but we want to know how far you mean to go in the design; then a remark was made that we are very apprehensive of creating a breach between them, as is the case between them and the Constitutional Society; there was a good deal of conversation in consequence of that letter, that the Society of the Friends of the People did not go so far in their idea as the London Corresponding Society and the Constitutional Society did, for all along it was held as an invariable idea that eventually it must come to a struggle.

Lord Chief Justice *Eyre*.—You are not speaking now from a minute?—From my recollection of what was often repeated.

Mr. *Bower*.—Do you recollect Margarot saying any thing after this reply that he had sent to the Friends of the People?—Margarot stated that there was a disunion between the Constitutional Society and the Society of the Friends of the People; but I cannot say I recollect exactly what was the reason of it.—There were thirteen delegates met that night.—A letter from Sheffield of the 16th of January, 1793, signed, David Martin president, Horsefall secretary, recommending a communication with all the societies in the kingdom, to form a constitutional meeting, and all to agree upon the same thing—asked how far we mean to proceed at this time—A reform nugatory, unless universal right is established, and they advise a general petition to the House of Commons, on the present inadequate representation—they want to know if the Friends of the People are true friends—Margarot says we are getting on too fast again, and that petition was not the mode.

Was that an observation he then made, or your own observation to the delegates?—His observation to the delegates.—Margarot said, petition was not the mode; but at the same time it was agreed upon by him and the rest of the delegates, that petitions should be presented for the sake of keeping the public mind agitated with a reform. It was then recommended that all the divisions should go to No. 52, in Frith-street, and sign the address of the Friends of the Liberty of the Press;—that is, every delegate was to recommend it to his division, at the next meeting.—In the course of the meeting, Margarot made a remark, that our address to Mr. Reeves was not liable to any punishment, or he and Mr. Hardy would have been taken up. Margarot said, he meant to invite sir Sampson Wright to his division, or any one that he might send to the divisions, to show the legality of them; that is, the whole of that meeting of delegates. The next that I have is only reports at the divisions made by members at different times.—On the 5th of February, in Crown-street; this is—

Lord Chief Justice *Eyre*.—Did you attend no longer as a delegate?—Yes; this is a meeting of the Division No. 23. —Bambridge



read a minute that there are sixty friends to the cause, who decline at present meeting the society; but they are good friends, and sincerely wish them success; and some of them say, if they want money, they are ready to contribute.—He says, there are certain religious societies in the kingdom, almost in every town, whose sentiments lead them strictly to republicanism; they are numerous in Birmingham, Leeds, Liverpool, Bristol, Manchester, Hull, Derbyshire, and particularly in London. The society in London are just now beginning to organize themselves agreeable to the principles of France—their meetings are Mondays and Thursdays.—It was then said that Tom Paine's Works had been published in Sweden.—The next meeting was on the 7th of February, of Delegates, No. 8, in Queen-street, Seven Dials.

Was the prisoner there?—He was. At this meeting it was proposed that the surplus of the quarterage of the different divisions, if there should be any, should go towards paying the deficiency of Baxter's division, No. 16, for their room. We must preserve the divisions No. 25 and 16, being poor, they will be of great service if we go to war.—This was an observation from Margarot at that time.

No. 25, and No. 16, were, I understand, the Spital-fields divisions?—They are the two Spital-fields divisions.

Lord Chief Justice Eyre.—Was the expression, *war*?—Yes.

Lord Chief Justice Eyre.—Was there any explanation given of that expression?—The explanation that was given was this—It was understood——

Lord Chief Justice Eyre.—I did not ask how you understood it, but whether there was any explanation actually given in words, at that time, by any body, of what was meant by *war*?—That the country would rise against the present government.

Mr. Bower.—Who said that?—Margarot.

Did Margarot say that the country would rise against the present government, or did he use the word *war*, and you understood that he meant by that, rising against the government of the country?—He made use of the term *war*.

And you understood he meant that?—Yes; and it was mentioned by several of the delegates, that it was eventually expected that there would certainly be a rising in the country.

Was there any conversation of that kind at the time when Margarot made use of that expression?—Yes; it was taken up and spoke to by several of the delegates that night.

Mr. Erskine.—Have you any note of this?—I have not; but I remember it perfectly.—A letter sent to Bath has been gone fourteen days, and no answer.—No letters received this week.—A Sheffield letter of the 16th of January, 1793, by order of the Society for Constitutional Information, conveyed to all societies, they request to know how far they

mean to go—it is their opinion that we should be of one opinion to petition parliament this season—it will give strength to the cause.—The restoration of the right of election not to be under twenty-one—by doing this we shall know how far we can support Mr. Grey's motion this season—no time to be lost—Hardy proposes a delegate from each division of the society, to agree how to proceed.—Mr. Fox has said in the House, the people have a right to alter the government when they please—the Scotch have done it, and the Irish.—The London Corresponding Society was first formed to send a delegate to all the other societies, to determine the best way of reform.

Lord Chief Justice Eyre.—You said that Hardy proposed a delegate from each division?—That is, to agree how to proceed; that is another thing—next follows Mr. Fox's observation in the House of Commons.

Mr. Bower.—Who states that observation of Mr. Fox's—I do not know; it was observed; and the same with regard to this, I do not take upon me to say who particularly said this.

What is meant by first formed?—is it descriptive of what was the intention of the society when first formed? or what is the meaning of it?—It is simply an observation that was made from one of the delegates, saying, that the principles of the society first of all—the intention—was, for a reform in parliament.—The Friends of the People in the Borough yet exist; and it was determined to communicate our letters to them and all other societies, and inquire their intentions.—It was then agreed that a circular letter should be sent to all the societies in London, to meet two or three from each, and come to some determination.—The question to be debated at each division, was, what is the best way of proceeding?—This is to be done by advertisement in Saturday, Sunday, and Monday's papers, that it will be discussed the next night at each division, and that there are to be six advertisements—fifteen delegates met—It was then determined to write to Sheffield, and to inform them that we will answer them very shortly, how we mean to proceed.—The next is the 14th of February, 1793, division No. 12, met at Mr. Godfrey's, an attorney, in Fore-street, and chose him for delegate; but we rejected him, being lord George Gordon's attorney, and agreed to reject all connected with him.

Why did they reject him on that account?—They were determined to have nothing at all to do with any person that had any connexion with lord George Gordon; \* and the division No. 12, had a person of the name of Watson, supposed to be secretary to lord George Gordon, that attended them; and it was intimated that lord George Gordon was by some means acquainted with what was

\* See his cases in this Collection, Vol. 21, p. 485, and Vol. 22, p. 175.

going on; that he made use of this Watson by way of bringing forward different things; they conceived he would be very troublesome, and that if his name was connected with the Corresponding Society, it would make them disrespectful in the eyes of the public; they then rejected him.—Division No. 12 to meet next Wednesday evening, at the Crown in Newgate-street; but if refused at the Crown, to go to Robins's coffee-house in Shire-lane, who would take in any of the divisions.—To be considered next meeting, whether you petition parliament—that will engage the public attention for the present.

Lord Chief Justice *Eyre*.—Does it appear whether there was any delegate chosen, or not?—There was no farther proceeding upon this, than just remarking, that it would be necessary to come to a determination at the next meeting of delegates, whether it was agreeable to the different divisions to petition parliament.—This was a meeting of the delegates.

Lord Chief Justice *Eyre*. Whom was Godfrey rejected by?—by the delegates, or by his own division?—By the delegates.—Agreed to demand a conference with the Constitutional Society—they are drawing up the state of the representation, and are going as far as us.—The Friends of the People do not go so far.—The Borough Society do not go so far.—The Holborn Society say they are for republicanism.

Mr. *Bower*. What is become of the Holborn Society?—It is broke up; and the greatest part of the members have joined the Corresponding Society since.—The Aldgate Society is now called the Bother'em society—that society is since broke up.—There are about six societies in London to confer with.—The Friends of the People have not yet answered our letter.—A letter sent to the Constitutional Whigs at Sheffield, saying, we are about a general conference, and shall write to them.—There are two societies at Norwich united—the Constitutional Society wrote them to continue, and assured them we are firm, and mean to collect the general opinion.—Three questions for consideration in the divisions, whether they shall petition the king, or the parliament, or call a convention.

Was that contained in your letter to the society at Norwich?—This is what was agreed by the meeting of the delegates, to be sent by each delegate to each division, to consider what they should do at that time; and it is stated as three questions—first of all whether you will petition the king, or whether you will petition the parliament, or whether you will call a convention, to be submitted to the delegates. It was remarked that it might be as well to decline coming to any resolution till the whole nation are agreed.—Then Margarot says, neither petition nor remonstrate, it would be unconstitutional—that finishes his observation.—Then it is reported that the Aldgate society had thank-

ed Mr. Fox for his speech, saying that the people may alter the constitution without giving their reasons for it—that is the society that were got together, and called the Bother'em society.—The next is a meeting of division No. 23, on the 19th of February, in Crown-street—It was agitated there, upon the question, which was the right age for election, eighteen or twenty-one—there was a great difference of opinion in the meeting—one was for eighteen years, ten for twenty-one, and one for neither, unless householders.—Printed copies of the petition to parliament to be distributed amongst the public—that means that they had come to a determination to petition parliament, not to petition the king, nor to call a convention.—Field met the division No. 12, at the Crown in Newgate-street—they were refused meeting—they then went to Godfrey's, and re-chose him a delegate.—I do not know whether I have mentioned that this was a delegate meeting, on the 21st of February, at No. 31, Compton-street—this last matter Godfrey rejected—being re-chose, he insisting on his right of being delegate, and insisting upon staying in the room, there was no other way of getting rid of him but by adjourning to No. 57, Charles-street, to meet on the Saturday evening.—It was reported that a great number of delegates were in town from Scotland, upon a reform.—A letter from Southampton, approving of the plan, and want our addresses to form a society, and wanted us to correspond with them.—A letter to be sent to them by division No. 28.—The Constitutional Society have adjourned till the 15th of March, supposed to see what Mr. Grey does in parliament.—Agreed to write to all the societies, both in town and country, to send a petition to parliament—no time to be lost—ours to be drawn up immediately; and we are certain that twenty thousand will sign it—if they are all rejected, write to them to continue; and then will be the time for all to unite, and to petition the king.—This is a report likewise—that the Friends of the People approve of Mr. Grey's remonstrance—it is a leading feature.—Reported that the serious stoppages from the bank's refusing to discount, will assist the cause, from the failures which must follow.

Mr. *Erskine*. Is that a report, or what somebody said?—I mentioned it as a report—it was reported by one of the delegates, at the meeting of delegates—not that it came from any of the divisions.—A letter was read from T. Farley, esq. upon the illegality of imprisonment for debt, saying, he had been five years writing a treatise on it; and he wants us to subscribe to it—it was agreed that we could not give him that support that we supposed that he wanted; but, however extracts might be made from that book, so as to be serviceable.—A letter from the Friends of the People, dated 15th of February, in answer to ours of the 1st of February, signed by



E. Jeremiah Carter, chairman, saying, very soon their plan would come forward to reform all the abuses existing.—Mr. Reeves's society is unconstitutional, their society is to create an organ to speak to the legislature—they will not give up their power of action to any society—but they say the time of action may not be very distant—this is a letter from the Friends of the People.

Mr. Bower.—Where at?—I rather think it is from some country correspondence—I have not got down whence it comes—it is signed E. Jeremiah Carter, chairman.

How is it introduced in your minute? as coming from whom?—A letter brought and read.

Where did it come from?—From the Friends of the People, signed E. Jeremiah Carter, dated 15th February, in answer to ours of the 1st of February.

Mr. Bower.—We have read the letter—he has put it down Carter—it should be Curteis—it is published, folio 63, in appendix E. of the Report.

Lynam.—They will not give up their power of action to any society; but they say the time of action may not be very distant—it is something to this purport.

Lord Chief Justice Eyre.—That is your notion of it—your extract?—Yes.

Mr. Bower.—Did you hear the letter read?—Yes, it was read.—Answered the Norwich society, that we think that the Friends of the People are friends to the cause.—Twelve delegates met—to write to the Bath society.—A motion to be debated at each division, if they gave the delegates power to reject any delegate on good reasons.—February 28.—Meeting of delegates, at Mr. Stiff's No. 58, Paternoster-row.—Motion by Mr. Margatot that the thanks of the London Corresponding Society be given to Mr. Fox and the minority of forty-four—the same to lord Lauderdale, &c. for their opposition to the war.—Agreed to be advertised in the Morning Chronicle, Morning Post, and Ayre's Sunday paper.—It was observed that the war was the minister's, for the purpose of diverting the minds of the people.—A letter from Sheffield, inclosing their resolutions past on the 13th of February by order of the committee.—Resolved by the Society for Constitutional Information at Sheffield, that war is the greatest evil ever introduced to trade.—This is my recollection of it, as near as I can recollect, that they return their thanks to Mr. Fox, for his support of the people for many years past, most particularly this session—to Mr. Erskine, for his defence of the liberty of the press—to Mr. Grey, Mr. Lambton, to Mr. Sheridan, and the glorious minority of fifty-two—to the duke of Norfolk, lord Stanhope, lord Lauderdale, &c. and copies to be sent to each, and published in all the papers in town and country.—Agreed to write to Sheffield that a petition to parliament will not succeed, yet at this time it will answer a good

purpose—and that the London Corresponding Society are going to petition, and write to all societies in the kingdom to do so—it will cause the subject to be agitated every week—no time to be lost—and say that we equally lament the war.

Was there any letter prepared in consequence of that?—The London Corresponding Society have drawn up a petition, which was presented by Mr. Gerrald, who said he had applied to Mr. Mackintosh, who said he would go with him to get Mr. Fox to present it.

Were there any letters prepared, in consequence of this agreement that they should write to Sheffield, by Margatot or any other person?—Margatot wrote this letter of course, the substance of it was this—

Mr. Bower.—That is in appendix to the Report, page 67—we have read it already.—What is your next?—March 7th, 1793, No. 31, Compton-street, fourteen delegates met.

Was Hardy there?—Yes.—Read the petition to parliament, and refer it to be considered by each division—the title of the petition. The Inhabitants of London, Westminster and their Vicinity.—The discussion of that took up the whole of the evening.—That new delegates should be chosen on the 28th of March. The delegate of division No. 1, moved that the Essay wrote by Mr. Friend,\* of Cambridge, on the war, and published in the Manchester paper, be printed and delivered to all the divisions. Mr. Friend, of Cambridge, is trying now; and it is supposed he will be excluded the College.—The remainder of the evening upon the petition—the petition to be made out upon rolls of parchment, and each delegate to have one, to try what coffer-houses will take it in to lie to receive signatures.—March 21, 1793, No. 31, Compton-street.—Baxter reported that some constables had been at division No. 16, to disperse them, but dare not go up, the company being too large: they left word that they would come in greater force.—Received a letter, dated the 28th of February, saying, as you meet to overturn the constitution, you have warning that warcrafts will be taken out against every member.—A letter, dated March 15th, from the Birmingham Society for Constitutional Information, signed John Harrison, beginning citizen Hardy, the letter was requesting to correspond, to strengthen the love of the human race, and to restore the representation of the people.—It complains of the vernal mode of election—the poor's rate, tythes, and the dearness of provisions—they are determined to think and speak for themselves—to petition parliament—speak, unite, and it will be done—these are the heads of it as I gathered: this letter was not directed to Piccadilly, but to the house that Mr. Hardy lived in before he went there.—There was a report that the Friends of the People had received two letters

\* See his case *enté*, Vol. 22, p. 523.

from Sheffield, directed to Mr. Stuart; there was no notice taken what the letters were—Grant and Littlejohn discharged from the London Corresponding Society, and to write to the Constitutional Society, and to ask for other honorary members to represent them.

What was Grant discharged for?—For withholding the manuscript formerly mentioned.

Lord Chief Justice *Eyre*.—Was it said where these two letters came from to the Friends of the People?—I take it for granted from Sheffield; but I have not put it down. Littlejohn was discharged for the neglect, I believe, of his division; he was gone down into Scotland.

Mr. *Bower*.—Did you minute what Grant was discharged for?—In consequence of a former resolution, that if he did not deliver up the manuscript he should be discharged; and now they were discharged. A motion was made by Margatot to print a thousand of Friend's Address to Republicans and Anti-Republicans, to make extracts from it by a select committee, with some strong remarks thereon by them.

Lord Chief Justice *Eyre*.—What was the title of Mr. Friend's book?—An Address to Republicans and Anti-Republicans; there were six to form that committee, and to meet in Paternoster-row, at Stiff's house. The next meeting was the 28th of March, at No. 31, Compton-street, a meeting of delegates. It was agreed to bring all the quarterage next Thursday, the Patriotic Society, in Holborn, joining the division No. 29.

Was this Patriotic Society the same you mentioned before, that broke up, and the greatest part joined the Corresponding Society?—The same. The report was of the number of signatures to the petition; the whole was seven hundred eighteen on the five skins. A select committee chose to make laws for the society, and to submit them to each division, to meet every Thursday afternoon at five o'clock; any three to proceed to business; other delegates allowed to visit.

Lord Chief Justice *Eyre*.—Have you any minute of any debates upon the subject of the necessity or the occasion of proposing this committee?—I have no minute of any debate. I see here is a mark made here—the committee to make extracts from Mr. Friend's Address to Republicans and Anti-Republicans, they are to meet on Sunday evening—fourteen delegates met on the 4th of April, in Compton-street—the select committee to consider of their future regulations, first of all for the society at large—the general rules and private regulations for the admission of members—the week's payment—admission of strangers—vote of exclusion—the number of constituents before you branch off—the summonses sent to each night's meeting—that is one part of that committee's consideration to

regulate—the next is, the constitution of general principles—committee's laws relative to themselves—the said delegates private regulations—laws relating to the society election of chairmen and of door-keepers.

Mr. *Bower*.—It is not worth while to state this; go to your next meeting.—The next is the 11th of April, at No. 31, Compton-street. The report was that two thousand had signed the petition: resolved to thank the Friends of the People for their impartial state of the representation. It was then said that the Constitutional Society at Sheffield had done it, and had requested them to publish it in a cheaper manner. In their letter they say the people are sleeping too long; the ignorance of the people is the cause of the continuation of the corruption of the senate—resolved to write immediately to every society again, and request them to petition directly; small bills to be stuck up in the night, informing the public where the petition lies for signatures—fourteen delegates met—Mr. Francis to be requested to present the petition—recommended by division No. 2, to advertise a general meeting at some tavern, and we may get a good many signatures there—already signed, 2,519.

You may go now to the 29th of April; I do not see any thing material till then—the anniversary dinner of the Constitutional Society at the Crown and Anchor,—were you present at that dinner?—I was.

Did you make a minute of what passed there?—I made this minute—that many of them talked very boldly, and laughed at the fears of the public—they are sure that a revolution will take place in this country.

Who was in the chair?—Lord Sempill was chairman—the next that I have got is the sentiments that were drank—The rights of man—May we never be ashamed to assert those principles we wish to enjoy—May despotism be trampled under the hoofs of the swinish multitude—May the world be our country, and doing good our religion—Freedom to France, and peace to all Europe—Thomas Paine.

Have you any remark upon that?—I have remarked here that Horne Tooke requested him to be given a second time—may the temple of freedom dome the earth for its basis, and heaven for its dome—may governments soon cease to be a conspiracy against the few, for the rights of the many.

Is not that reversed?—No; I have it so—by lord Daer, John Horne Tooke for his vigilant opposition to despotism—The victims of despotism, and may the people of Great Britain have courage to redress them, lord Sempill, Mr. Fitzgerald, &c. Those are the toasts that were drank. The next is the second of May, 1793, a delegates' meeting, at No. 31, Compton-street. Mr. Fox wrote to Mr. Hardy, at nine o'clock at night, that our saying a radical reform would be understood universal suffrage, which he was not a friend to,



but would present the petition if we desired it: in consequence of this it was determined to get Mr. Francis to present it, and to write to him on Saturday morning; the petition to be presented on Monday, unless Mr. Grey puts off his motion—two of the Sheffield delegates that brought up their petition made honorary members—agreed to meet on Sunday evening at Compton-street, and bring in all the skins.

Lord Chief Justice *Eyre*.—Did not you say that there was a resolution that there should be a new election of delegates on the 28th of March?—Yes.

Lord Chief Justice *Eyre*.—Was there a new election of delegates?—Yes.

Lord Chief Justice *Eyre*.—Were you re-elected?—Yes; on the 25th of September.

Mr. *Bower*.—You have got a minute the 16th of May, have not you?—I have mislaid that by some means or other.

Do you remember any thing passing upon the 16th of May respecting the war and the addressers?—No.

Mr. *Edward Lawson* called again.

Mr. *Bower*.—Look at that paper. Did you find that among Mr. Hardy's papers?—Yes.

[It was read.]

“*South-street, 2nd of May, 1793.*

“Sir;—I am to apologize to you for not having sooner answered your letter, but I have been very much engaged in business for some days past. I will certainly present the petition if it is desired, because I would not decline presenting a petition for any of my constituents; but I confess I think it might with more propriety be presented by some other member, because it is generally understood that the radical reform, which it

forward, it will refute its being a popular one; then he goes with regard to the subscriptions and the expenses of the society.

Mr. *Bower*.—You had better pass it over if you cannot make it out well.

Lord Chief Justice *Eyre*.—Was any thing done upon that anonymous letter?—It does not appear that any thing was. The next was a meeting of the delegates on the 23rd, at No. 31, Compton-street; it was then proposed to call a general meeting, which would be an irrefragable proof of our being legally assembled, and would take away those reflections upon us, and dissipate the fears of the public: this was to be agitated at each division.

Lord Chief Justice *Eyre*.—Who made that proposition to call a general meeting?—I cannot tell. There were twelve delegates met; a letter from R. Littlejohn, dated 18th of May, in which he says, he was surprised that he was excluded the society; his attachment is not to be bought or sold, and he would not give up the cause but with death; this is what I collected from that letter. Committee for drawing up an address to the public, &c.; then it was observed, that Le Brun's letter to lord Grenville has altered the step; on that account it would appear as though we had some communication with France, therefore we ought to wait to see if any notice is taken of it. It was thought proper to refer the addresses to the public at that time, and it was referred for a week.

Lord Chief Justice *Eyre*.—What did you say it might be thought to do?—It would appear as though we had some communication with France. The next meeting was on the 30th of May. I do not find any thing more than Mr. Hardy's intending to make a motion that we should break up for three

that the thanks of the committee be given to Mr. Wharton for his motion and speech.

Mr. *Erskine*.—Mr. Wharton the member of parliament?—Yes; and it was agreed to be printed, and the thanks to be published in four papers, the Courier, Chronicle, Gazetteer, and Ledger.

Mr. *Bower*.—Does it appear by your minutes whether it was only to be published, or have you any farther entry respecting what was to be done besides publishing?—I have this memorandum, that it was to be put once in each paper; that is to say, that it was to be advertised four times; it was likewise agreed that there should be some comments made upon it, and a special committee, to draw it up, of five of the delegates; it was to be an open committee, and to meet at six o'clock on Monday—A letter from Leeds, a delegate meeting, May the 30th, 1793, a society lately sprung up, sent by the request of the Sheffield society, to correspond with all societies, and begged ours, although only 200, yet are determined to instruct all their neighbours—Thomas Hanly, secretary, it was instituted the 47th of November, 1792.

Have you any minutes of the 13th or the 15th of June?—The 15th of June I have.

You have not any of the 13th?—No.

Do you recollect any thing about the 13th from your memory?—I do not.

Then to the 15th; that was, I believe, a meeting of delegates, at No., 31 Compton-street?—I believe it was; it was recommended that an advertisement

Do you know whom it was recommended by?—I have not a memorandum of that—Resolved, that our thanks be given to J. Wharton for his speech on the 31st of May, to restore the constitution of 1688. We earnestly exhort him to persevere in the cause of the people, and doubt not, notwithstanding the contumelious silence of the majority, it will have its due weight with the people.

Mr. *Erskine*.—Read that again.—An advertisement for Monday—Resolved, our thanks to J. Wharton for the speech he made on the 31st of May—I believe he spoke his speech on the 31st of May—to restore the constitution of 1688; we earnestly exhort him to persevere in the cause of the people, and doubt not, notwithstanding the contumelious silence of the majority, it will have its due weight with the people. Agreed we will give our decided support to every measure brought forward to restore our rights as at 1688. Resolved, that the thanks of the London Corresponding Society be given — Lord Chief Justice *Eyre*.—Was this a meeting of delegates?—Yes.

Mr. *Bower*.—It is all at meetings of delegates, unless I shall mark it as some other meeting.

*Lynam*.—Resolved that thanks be given to the twelve men that voted with Mr. Wharton the 6th of June—The Constitutional Society for information have published ten thousand

of Mr. Wharton's speech correct—Mr. Margaret will get one thousand for us.

Have you any thing farther of that meeting?—Nothing more.

About this time did you for any period cease to be a delegate? Was there any division upon what you have been last reading?—I do not recollect that there was.

Mr. *Erskine*.—Do you mean to say that you recollect there was not?—My answer is, if there had been any thing of the sort, I should have made a memorandum if any thing particular; I do not recollect that there was any thing of a division, but I remember it was said by Margaret—

Mr. *Erskine*.—Is that in your note?—No; I am going to tell you my recollection. He said he would get a thousand for the London Corresponding Society; but I have no minute of that; if you mean to put that down as my minute, I shall, when you come to examine me, show you it is no minute of mine.

Mr. *Bower*.—You ceased to be a delegate for some period after this time? This is the last meeting of delegates you attended for some months?—I attended on the 13th of June.

We have got to the 15th.—Then it must be the 15th.

After that time you ceased to be a delegate for some time, did not you?—It was so.

Were you, at any time in the month of September, present at any division meeting?—Yes.

What time in September?—I think it was the 25th.

Upon the 25th of September, did you attend any division meeting, and where?—I attended the division No. 23.

Where did that division meet?—I do not recollect the name of the place; it was in a kind of court or garden near Bunhill-row; it goes out from Blue Anchor-alley; and there is another narrow alley to it, which I do not know the name of.

It was in some little place or alley near Bunhill-row, Moorfields?—Yes; It was reported that a new society was formed at Coventry, and that they were increased very much in the last month. It was reported that there was a new division of the London Corresponding Society; that they took Number 10, which had ceased prior to this time, and met in the Grove, Bandy-leg-walk, and it was said they were very violent.

Said at that meeting?—Yes; that was the report from one delegate of the division.

A new division?—No; a division had branched off, and took Number 10, that had ceased prior to this time, and they met at the Grove, Bandy-leg-walk. This is a report from one of the division of a gentleman that lives at Walworth, who is going to join the London Corresponding Society: and it is at the same time observed, that he wrote the offensive play-bill, the guillotine, his name is Cruden. It was stated in the course of



evening, in the information that they endeavoured to bring forward of different circumstances, it was stated in that way, and it was followed up by a remark from the same person, that many people supposed that he was employed by the Convention in France.

Were any other papers brought forward?—It was reported that there was a petition to the king brought forward at the last meeting of delegates; but that it was declared treasonable by Mr. Vaughan, in consequence of which another was to be drawn up.

When you say it was treasonable, do you mean to say that that was Mr. Vaughan's opinion?—It was reported by several that Mr. Vaughan had given that as his opinion.

Was any thing done upon that?—That is all.

Did the delegate report any thing farther, after it was found that that petition was supposed to be treasonable?—Only that another was to be drawn up.

Was there any thing farther done at that meeting?—I have no memorandum of any thing else.

Or have you any recollection? if not, go on to the next meeting, which was on the 7th of October.—The report of the delegate was, that there were eighteen new members made that week.

That was at the division meeting?—Yes, the same division meeting, Oct. 7th, that a Mr. Bell, who was at Brighton, was going to Ireland, and would introduce a correspondence with the societies there, from the London Corresponding Society. At the last meeting of delegates a petition was brought forward, or agitated, was brought forward, discussed, I suppose, against the war, nothing more is said of that. Hodgson was chosen president, and Hardy was continued secretary: the next is November the 5th.

Before you go to November the 5th, were you present at any other meeting, at Hackney, or any other place?—Yes.

At what time was that?—It has indeed been proved to be the 24th of October?—I do not recollect the day of the month that that meeting was, but it was to elect two delegates to send down to the Convention at Scotland.

Were two delegates elected at that meeting?—Yes.

Who were they?—Margaret and Gerrald, I think.

Who appeared as president of the society at that time?—Hodgson.

Where was this meeting?—At a house in Hackney-road, the election was in a garden behind the house.

Was Mr. Hardy at that meeting in Hackney-road?—I think he was, but I will not be positive.

What meeting were you at on the 5th of November?—Division, No. 3, the delegate reported, that Hodgson had resigned, and that Baxter was chosen chairman; he then  
 rer Margaret and Gerrald went to

Scotland, the 30th of October, and that the fund was very low, the subscription not equal to the expenses.

Where was this?—At the same place near Bunhill-row; the next report was that a second delegate should be chose from each division, to form a sub-committee, to revise the constitution, and to meet every Friday, at No. 31, Compton-street; the next report was of a new society formed at Bristol; the next that colonel Macleod, and Mr. Sinclair, were gone as delegates to Edinburgh, from the Constitutional Society; the next meeting was November the 12th.

Before you get to November the 12th, were there any reports made upon the 5th of November, respecting Franklow?—I have no memorandum of that.

Do you recollect any thing stated about Franklow, upon the 5th of November?—I recollect it being said, that there was going to be an association formed at Lambeth, for the purpose of learning their exercise.

Recollect all the circumstances that you can, respecting that.

Mr. Gibbs.—Let us understand that you have no memorandum of this?—No.

Mr. Bowser.—Do you recollect any other circumstance that was to attend that meeting?—I understood that they were going to form themselves into different societies.

Of whom were those societies to be composed?—I was going to say a plan was forming for those societies to learn their exercise at different places all over London, and that it was to be confined to the London Corresponding Society.

Do you recollect any thing farther being said about the plan?—Not particularly. Afterwards it was more particularly brought forward; but I have not, to the best of my recollection, any thing more.

The plan was not at that time completed?—No, the forming of the society, and how they were to meet, to carry it on, was not at that time mature to the best of my recollection, but this was said, that there was a variety of people that did intend to learn their exercise, but this at Lambeth was the only one that was mentioned.

There was no association formed but the Lambeth?—No, but it came out afterwards, and probably, it will not be improper to mention it here, that there were members of the London Corresponding Society, that had a desire of introducing the exercise among the London Corresponding Societies divisions on different nights, from the night that the divisions met on different evenings.

Was that agreed to or otherwise?—It was rejected at No. 23, but this is only anticipating it.

It will come better in its order by-and-by; who was president of this society, on the 5th of November, chairman of the delegates, and so on?—The report of that division meeting was at the first committee night of the dele-

gates, Hodgson had resigned the chair, and Baxter was chosen chairman.

Were you present at any meeting upon the 12th of November?—That is a division meeting.

Of which division?—No. 23.

Where was it?—At the same place.

What was done at that meeting?—Read a letter from Norwich, signed W. Cole, from all the societies there, approving of the Convention at Edinburgh, and requesting a constant correspondence; finances are very low, they want to get a second subscription in order to support the delegates in Scotland.

Lord Chief Justice *Eyre*.—Do you mean the finances at Norwich or of your society?—From Norwich, and then here seems a kind of instruction to the delegates, requesting them to visit all the societies in Scotland.

Mr. *Erskine*.—Let me take that down in your own words; there seems a sort of instruction from the delegates requesting them to visit all the societies in Scotland?

Lord Chief Justice *Eyre*.—How do you state that?—The finances are very low, in order to get a second subscription, in order to support the delegates in Scotland, the instruction is with regard to a letter that has been sent to the delegates requesting them to visit all the societies in Scotland, here is something that I gathered from the delegate, reporting it from the committee of delegates.

Mr. *Bower*.—That was the regular way of making these reports; the common ordinary course of the society?

Lord Chief Justice *Eyre*.—Is this that you state about the instructions part of the letter, or what was done by the society upon the letter?—Done by the society.

Mr. *Erskine*.—It must have been something, he says, but we have not heard what it must have been?—It was reported that the finances were very low, and they want to get a second subscription to support the delegates in Scotland.

Lord Chief Justice *Eyre*.—That was part of the Norwich letter?—I thought so at first, but looking at it again I rather conceive that this is the report of a delegate from the committee of delegates.

Mr. *Erskine*.—There seemed to be a sort of instruction, concerning something that I gathered from a delegate, who collected it from the committee of delegates, I thought it was the Norwich letter first, but looking at it again, I rather conceive—what do you conceive?

*Lynam*.—That the finances of the Corresponding Society were low, and that they wanted a second subscription to support the delegates in Scotland.

Lord Chief Justice *Eyre*.—Then what was meant about instructions?—The instructions were in a letter that had been sent, but by whom I have no memorandum here, to the delegates to visit all the societies in Scotland.

Lord Chief Justice *Eyre*.—Do you mean

that there was an instruction sent to them in a letter?—I do; it was reported by the delegates, that there was going to be a second general meeting to be held at Edinburgh, but afterwards it was altered and intended to be held at Glasgow instead of Edinburgh.

Mr. *Bower*.—This is the 12th of November?—Yes.

When were you re-elected, if ever you were re-elected, a delegate from any of those divisions?

Mr. *Bower*.—We have the letter which has been read of the 8th of November, from the prisoner, to the delegates in Scotland.

Mr. *Gibbs*.—Have not you some notes you have gone through?—Yes, I have put them in my pocket.

Mr. *Gibbs*.—I desire to look at them?

*The Witness delivers them to Mr. Gibbs, saying*.—I presume you will give them me again.

Mr. *Gibbs*.—What reason have you, sir, to suppose that I will not give them to you again?—If you mix them, it may be impossible for me to arrange them again.

Mr. *Gibbs*.—You have given me these papers, mark them 1, 2, 3, 4.

Mr. *Bower*.—I beg to go through my examination; do not be marking papers while I am examining you; put them in your pocket till we have done. You were elected a delegate again at what time?—The first meeting I attended of the delegates, being re-elected, was on the 2d of January, 1794.

Was Mr. Hardy a new member, when you attended as a new member?—He was secretary.

After you re-commenced a delegate?—Yes.

Now go to the 2d of January, 1794?—The first is the election of delegates I believe, I need not read them over; the first resolution was to remove the committee room to No. 3, New Compton-street; to remove the meeting of delegates to No. 3, New Compton-street; then a resolution was passed, that no person but what had belonged three months to the society, was eligible to be elected a delegate; it was agreed to draw up a hand-bill, approving of the conduct of the delegates in Scotland, and a censure on the magistrates; to distribute one thousand in Edinburgh.

Was this a delegate meeting?—Yes, to censure the conduct of the magistrates; to distribute one thousand in Edinburgh, and they were to be sent down immediately.

How soon were they to be sent down?—To the best of my recollection the urgency was explained to be very great; and I think they were to be sent down the following night. A letter was read from Sheffield, signed William Brown Broomhead, chairman, recommending some spirited resolutions to be adopted to support the delegates immediately.

Mr. *Erskine*.—Read that again?—A report read from Sheffield, William Brown Broomhead, chairman; it recommended some spirit



resolutions to be adopted to support the delegates immediately, and it likewise says, that at this meeting there were about two thousand; I believe that is all at that meeting; the next I have is the 9th of January, at No. 3, according to the resolution at New Compton-street.

At which meeting I believe the prisoner was not present, was he?—I am inclined to think he was there, though I have not got his name down, I have the names of a variety of delegates and other people that were to be stewards for a meeting that was to be held on the 20th, I think.

What passed at the meeting? if you find any thing to enable you to say that the prisoner was there, we will take it down; if not, we will take it that he was not there?—A general meeting to be at one o'clock, on the 20th instant, to meet Mr. Gerrald, and have a dinner at five o'clock, at the Globe-tavern in the Strand.

One o'clock, on what day?—On the 20th of January, a sub-committee was formed for the management of this matter; the sub-committee that undertook the management of it from the 9th to the 29th, were Thelwall, Franklow, and Stiff; the names of the stewards are, John Thelwall, John Agar.

John Agar, have you the christian names at full length in your minutes?—I may be mistaken in the christian name, which has sometimes happened, but I have it John Agar, and Stewart Kydd, barristers, John Lovett, H. F. Harrison, T. Stiff, Bartholomew Peacock, J. Philip Franklow, Thomas Harris, C. Sinclair, J. Powell, W. Williams, Thomas Mitchell, John Pearce, Matthew Moore, Wm. Moffatt, and J. Martin, attorney.

Did you see Wm. Moffatt?—Wm. Moffatt, it was said was a delegate of the convention at Edinburgh\*. Agreed, that tickets for the dinner should be five shillings, those that dined were to pay five and sixpence, and those that did not dine, paid six-pence for those tickets.

Have you any minute of any sub-committee?—a sub-committee to draw up a letter, and send to all the societies, to unite them all in one general sense in an address to the public, on their invaded rights by the proceedings of the magistrates at Edinburgh. It was mentioned at that meeting, that they should discuss the conduct of the right honourable Mr. Dundas, respecting the trials of the delegates in Edinburgh.

Who were to be the sub-committee for the purposes of drawing up this letter, and discussing his conduct?—I have not got down the names of the committee.

Lord Chief Justice Eyre.—Was it a different sub-committee, from the sub-committee that was to manage the dinner?—Yes; the next minute that I have got, is of the 20th of January, at the Globe-tavern.

Mr. Bower.—Have you no farther minutes of the business of the 9th of January; you are not yet come to the sub-committee; is that a minute of that day, or of the 20th of January?—It is on the same day a sub-committee to be chosen.

Does it appear that any sub-committee was chosen on that day?—There was a sub-committee chosen, but I have not got down their names.

Was there any plan agreed upon to be proposed, on the 20th of January, respecting the proceedings of this sub-committee?—I have read over what I have got down, and I recollect nothing more.

You stated, that you ceased to be a delegate from Midsummer, to near Christmas, how came you to cease to be a delegate during that time?—I ceased to be a delegate, in consequence of one of the London Corresponding Society, making a report some time before, that I was a spy upon the society, and I was tried in consequence of it, I think on the 13th of June, I was tried by the committee of delegates.

What was the result of your trial?—I was acquitted by a very great majority.

Having been acquitted by a majority, you then were re-elected a delegate, before the time you have last been speaking of?—I was re-elected, the next meeting I attended was the 2d of January, 1794.

Mr. Erskine.—When was it that you were reported to be a spy, and were tried?—I think it was the 13th of June.

Mr. Bower.—Now come to the 20th of January; were you present at the meeting at the Globe-tavern, upon the 20th of January?—Yes, a meeting the 20th of January, at the Globe tavern, J. Martin, president.

What time did you go to the Globe-tavern that day?—I went to the Globe Tavern, before the company had assembled, or business began, but I do not recollect precisely the hour they were assembling, so far I have a very clear recollection, in the one pair of stairs room, and that in the course of their consultation, and talking with each other, that the floor of the room gave way, and created a vast deal of confusion.

In consequence of that, I suppose, they did not stay in the room; after the floor gave way, where did they go next?—To the room above.

Were you there at any time in the afternoon?—I was there before the business began, and I was there till the business was finished, and the resolutions at that time were read, indeed I have a report of it here.

After the floor of that room had given way, and it was necessary therefore, that they should adjourn, and they had got into the room above stairs, where did the chairman, if there was any, place himself; what was the situation of the chairman?—There is a place for the musicians, at the side of the room, in case there is a dance.

\* See the Minutes of the British Convention, Vol. 23, p. 392.

A sort of balcony, or gallery?—Just so, that was the place where Mr. Martin was.

Who else was there?—There were Ramsey, Richter, and Thelwall.

Was the prisoner there or not?—The prisoner was there likewise, but he did not stand in the front, he stood behind.

Who stood in the front as chairman?—Martin, Thelwall, Ramsey, and Richter.

What passed at that meeting?—A deal of time was taken up by the report of Mr. Ramsey, the short-hand writer, reporting Margat's trial; next was carried the address to the nation; there was then an adjournment to dinner, when Thelwall was chairman, and president.

Were you present at the dinner?—Yes.

In the same house that day was it?—Yes.

After the business was over, you adjourned into a room to dinner; was it a public dinner?—There were a great number of people at dinner, and to the best of my recollection, it was in the same room, however I will not say that positively, but I did not dine with the large company; I was in an adjoining room with a few of the company who could not get seats; I came into the large room after I had dined.

Was the prisoner in the room that you came into after you had dined?—Yes.

Was Mr. Thelwall there?—Yes, he was chairman at the dinner, but Martin was president at the meeting.

What passed when Martin, and Thelwall were there, after you came in?—All the report I have got is the toasts after dinner.

Were there any resolutions at any time made in reference to the general objects of the society, proposed by Thelwall, and agreed to by the meeting, there assembled?—I have got a memorandum here, that after Mr. Ramsey's report of Mr. Margat's trial, that next was read and carried, the Address to the Nation, which is dated at the Globe-tavern, although it was drawn up prior to that.—If I were to see it, I should know what resolutions were passed at that time, that is the only remark I have got made of it; then follows the dinner; there were several people in the course of conversation that I did not know, but conversation was kept up by different people that got together; I have made a remark, that there was very bold language made use of.

Mr. Gibbs.—This was a meeting, not composed wholly of the members of the Corresponding Society.

Mr. Bower.—Hardy was present.

Mr. Gibbs.—But he is speaking of conversation that passed from people there, whom he cannot name.

Mr. Bower.—Were you present at any delegate meeting, any where on the 30th of January? No, I must beg you to go to the 23rd of January, I must not pass over that?—No. 3, New Compton-street.

Was that a meeting of delegates, on the 23rd of January?—Yes.

Was the prisoner there, or not?—Yes.

VOL. XXIV.

Tell us what passed?—It was recommended that hand-bills be stuck up in all parts of London, saying what grievances we wish to redress.

Mr. Erskine.—Moved as a resolution, do you mean?

Mr. Bower.—Agreed by the delegates?—Yes—the next thing that came forward was a box for a subscription, for the support of the delegates, the amount of which was, 13*l.* 4*s.* 5*d.* the box was opened that night, and there were nine bad shillings in it.

One of the Jury.—What was the subscription for?—The support of the delegates in Scotland: it was proposed to publish the names of those who had given evidence against the patriots, but objected to by Thelwall, as it may produce massacres; it was proposed at that time, to choose two sub-delegates to attend the perpetual committee, to watch the parliament every night, and all to meet every Thursday, but for the sub-delegates it was not carried.

Which part was carried?—A committee was chose on that night, but I have not got the names of them, for the purpose of watching the parliamentary proceedings, but the sub-delegates part was not carried; it was proposed that that committee should be made perpetual, but I have no memorandum whether that was carried or no.

Was any proposal made for printing any thing?—I have mentioned, it was proposed to publish the names of those who had given evidence against the patriots.

You do not recollect any thing else?—I have not got memorandums of any thing else; it was recommended that hand-bills should be stuck up, saying, what grievances we sustained.

You do not recollect any thing else?—No.

Were you present at any delegate meeting upon the 30th of January?—Yes, January the 30th, No. 3, New Compton-street.

Was Mr. Hardy there?—Yes—Division No. 11, recommended to divide the metropolis into divisions, and to open the divisions to all parts, and to request of all those who do not belong to us, to subscribe for the delegates; this was referred to the constitutional committee.

What was meant by opening the divisions to all parts?—The opening of those divisions was, to endeavour to have meeting houses all over London, of different divisions of the society, those that lived nearest to a place of meeting, it was recommended to them to attend at the meeting nearest to them, for the purpose of collecting friends round about near that place where that division met, and so all round London.

Were any number of persons stated or agreed upon to compose these several meetings?—No particular number was stated at that time, they always held in idea a regulation which they had before, that when a division was more than thirty, forty, or sixty, that



it should branch off, and then have a new number; but, however, that was a matter that was very little attended to.

No particular number were to your knowledge proposed?—No; the division No. 13 recommended that the delegates be instructed to advertise, and request a many spirited friends that do not belong to us to come forward and subscribe to the support of the delegates.

How much was to be subscribed?—As much as they could prevail upon them to subscribe. Division No. 8, in Rotherhithe, wished to know if they should remove into the Borough, having had a constable with them, many have lost their business, and are afraid of press-gangs. The next was the call of the house.

What do you mean by the call of the house?—The delegates attended the call of the house.

Go on to the next after that?—A motion was made by Thelwall that there should be a permanent committee of delegates to consider of measures to be pursued during the present posture of affairs, and to be a secret one; those of the general committee of delegates chose, to be filled up by other delegates, and they were to be invested with a discretionary power to report to the committee.

To what committee?—To the committee of delegates; but the committee of delegates had a power to dissolve them when they pleased.

Was it mentioned of whom the secret committee were to consist?—They were Martin, Baxter, Williams, Thelwall, and Moore; that was carried unanimously.

Was there any secretary appointed to the secret committee?—None.

What was to be the power of the secret committee?—The secret committee was to consider of what measures were necessary to be adopted at that time, and so long as they should sit, according to the measures that were adopted in the House of Commons.

What were they to do, were they themselves to carry any measure into effect, or how were they to act?—The secret committee was to have a power to call the general committee of delegates together when they saw it was necessary, and at any time, or at any place. This was agreed to also.

What was the next thing that was carried?—A sub-committee of three to consider of the best mode to increase subscriptions for the delegates in Scotland; this was referred to the secret committee with full powers.

What was the next thing done?—There was a letter from Margarot, but I have no memorandum whether it was read or not.

Nor of the substance of it, have you?—No. Then go on to the next.—It was proposed by Thelwall that a committee of two, as a committee of exigence, should report to the general committee.

How was that committee of exigence to be formed, two from all the societies, or how to be formed?—I have it down here—A com-

mittee of two as a committee of exigence to report to the general committee, but not to publish any thing: but this was withdrawn—I have here a letter dated the 28th of January 1794, from Old Friends New Revived, that they had collected as many friends as possible, and would publish their sentiments; that they are increasing the Bristol Society for Constitutional Information.

Old Friends New Revived?—They describe themselves so in the letter.—On the 6th of February there was a meeting of delegates.

Was Mr. Hardy there?—Yes, he was.—The first thing that was mentioned there was, that a letter was received from citizen Stiff with respect to his going down to Rotherhithe, on account of the society established there being disturbed.—Motion from the permanent committee to nominate others in their places, it being a secret committee, and those that are to be appointed are not to be known. This was brought forward by the secret committee, saying that being a secret committee they had found out that it was dangerous, and therefore they applied to the committee of delegates to dissolve them, and give them power to choose another committee in their place; and they likewise requested that they might not be compelled to name the names of those persons that were to form the new committee. Division, No. 11, recommended the committee to consider of the situation of Hodson and his wife, he was put among the felons, and deprived of seeing his friends: this was sent back on account of the lowness of our funds, being obliged to support our delegates.

What delegates?—Delegates in Scotland.—Motion from division 29, that the names of those who have subscribed for the distressed weavers be printed, and to be posted up; that was not carried. A letter was received in a parcel from Sheffield from Margarot to Hardy, dated the 7th of January. A letter from Sheffield, dated the 30th of January, Joseph Scofield the bearer, recommended to spend all his time in the societies. A letter was received from Gerrald, recommending them to send down a short-hand writer to take his trial.

Was any thing done upon that letter from Gerrald, about appointing a short-hand writer?—It was mentioned that Mr. Ramsey charged forty pounds for taking Margarot's trial; Jenkins who was recommended cannot go. Sibley, in Goswell-street, to be applied to, to go down, and if he was not prevailed upon to go, Hardy should appoint somebody to go down.

What passed upon the 20th of February?—

The delegate of division 18, made a motion to reprint the Rights of Swine, and ordered it to be printed by Pearce.—Motion by Pearce, that a committee of seven be appointed to revise the new constitution, and report next Thursday evening. Resolved, that fifty thousand hand-bills of lord Stanhope's speech respecting the forcing troops be printed; to re-

turn him thanks, and to engrave the doctrine upon our hearts, and transmit it to our posterity.

After this time you ceased to be a delegate, or shortly afterwards?—Yes.

This is the substance of what you collected during the time you were a delegate?—Yes.

How became you a member of this society?—By mere accident.

What is your business?—An ironmonger, and in the commission line.

How did you become a member?—I was at the sign of the Mansion-house, when the division No. 12, had a meeting there; I knew nothing at all of it, but the landlord had one of their printed resolutions given to him, and I requested the favour of looking at it, and upon seeing it, my remark to him was, that it was a society formed for overturning the constitution of this country, and I advised him by no means to suffer them to meet there any more, for if he did, he would certainly have his licence taken away.

Then you made yourself a member of the society; how did you get admitted?—I went up to the society the same evening along with two other gentlemen that were there. I understood that any person might go into the room; there had been two or three had attempted it, therefore they appointed a door keeper to admit none but those that were members; one of the society endeavoured to turn me out, however I went in, and had some conversation with the president, whose name was Watson, and who was at that time supposed to be secretary to lord George Gordon; we were charged with interrupting the company; I asked pardon of the society, saying, I did not mean to do any thing of the kind, but understanding the society was on a public ground, I should be much obliged to them for one of their resolutions, and then I should leave them to their own deliberations.

Then you were admitted a member in consequence of what you had observed?—Yes; the following night, in Newgate-street.

*George Lynam* cross-examined by *Mr. Erskine*.

*Mr. Erskine*.—I have very little to trouble you with, for *Mr. Bower* has very kindly put the questions to you which I was disposed to put; I think you say you are in the commission line?—what sort of commission line?—Both in the Birmingham and Sheffield.

At this moment are you?—Not now.

How long is it since you were in this commission line?—I have been in the commission line, and am in the commission line now.

I thought you said a moment ago, not now?—I have authority to sell by commission from different people, but I do not keep, or have any stock left with me by any manufacturer at the present moment.

I should think you have hardly leisure to concern yourself with those sort of transactions, have you?—I have certainly leisure, and if I am to answer you how it is that I have

directed myself to the business, I shall answer you in a very candid manner, and tell you, that I am making an application for a business in the East-India line; that is, to attend at the coffee-houses to take orders from the captains and mates, and different officers on board, but I do that business on my own account.

How long is it since you first conceived this plan,—it certainly is a reputable one, and I don't find fault with it;—how long is it since you set yourself to this inquiry?—In a small degree I have done it for I suppose these seven years.

Taking orders for captains and mates, and so on, in a small degree?—Yes; till the last season.

How long is it since you did any business of that sort?—The last season.

And the season before, and so on, for the last seven years?—I never did so much as I did the last season.

You were an ironmonger originally?—Yes; I was brought up to that.

Where might your shop be?—I first of all had a warehouse in Wood-street; I removed from one house in Wood-street to another, and from thence to Walbrook, where I have been ever since.

You keep a shop open there now of course?—Yes.

You do?—Yes.

You have always kept your shop open then notwithstanding this collateral business at the East-India house, in the commission line?—I have always kept a warehouse for wholesale business; I have never been in the retail way since I left Shrimpton and company.

You were very much alarmed for the safety of the constitution of the country upon reading a paper I think that your landlord had shown you?—Yes.

Should you know that paper if you saw it?—Yes.

It is the "Resolutions" I believe?—Yes; the resolutions and address. It is the address that was brought out after the original one I stated in the month of March 1792, that was too small; afterwards it became more voluminous, and it has been made use of from that time to the present.

*Mr. Attorney General*.—I should suppose it was that of the 2d of May?—No; it was the 24th of May, 1792.

*Mr. Erskine*.—[showing a printed paper to the witness] is that the paper?—Yes, it is.

You were alarmed, and immediately said to your landlord, that this was a society which would bring on the destruction of this constitution, and of course, as a good subject, you immediately set yourself to inquire into it, and to become a member for that purpose?—Yes.

I need not ask you, because it follows of course, that in order to carry on that plan, it was necessary that you should seem to think as they did?—Yes.



You were elected a delegate?—Yes.

And you continued a delegate until the 13th of June, 1793?—Yes; as near as I can give you any intelligence.

Then you fell under suspicion, you were tried, and were acquitted by a majority?—Yes.

And pray, sir, if I might so far inquire into the forms of your trial, was the trial upon evidence, or were you acquitted upon any declaration of your own?—I was tried upon evidence; I was tried upon evidence that was brought forward at the meeting of the delegates.

Were you asked whether there was any foundation for that charge or no?—There were four or five gentlemen brought forward to the committee of delegates to prove that I was not a friend to the society; it took up a long consideration, and it was very late before we parted, and after hearing all that they could say, and from whence arose that suspicion, I was honourably acquitted. I have got down the names of my accusers, in the course of my minutes, but I did not take any kind of notice of it, not thinking it necessary.

Then being honourably acquitted, you continued to attend the society regularly?—I was discontinued as a delegate; I believe I served out for that quarter, but in that month I went down into Staffordshire, and into Yorkshire, upon business, upon an order that I had from America.

At what time did you first communicate to any magistrate that you were in the course of this inquiry, and whether you furnished them, or any particular magistrate, from time to time, with the notes you have been reading in court?—I consulted with a friend, and informed him that there were such and such societies about London.

I am not asking you what you informed a friend?—It is necessary I should state it; I should be sorry for saying any thing that is wrong, and I wish the world at large should know my reason for doing it; I did not do it of myself, but by advice; it was a gentleman that I had received friendship from at the west end of the town; he recommended me by all means to make a report of it; I did make a report of it, and have done.

And you have done from time to time?—Yes.

When was the first of those reports made?—I believe the first report that I made must be in the month of October, 1792.

I shall not at present ask you who that person was, and whether the report you made was to any person entrusted with any public station or merely to a private friend, to any person invested with magistracy so as to act upon it?—I do not know how far I am at liberty to answer this question; I made my reports to a person in a quarter that I was well satisfied that a proper knowledge would be had; whether it is by a magistrate, or whether by any body else, it makes no differ-

ence, I was satisfied in my mind that these societies would be known by those reports.

If you had told me that it was any body vested with any public magistracy, I would not have asked, but having said it is not a person in that situation, I ask to whom it was?—I have not said so.

I wish then to repeat my question?—I said I would answer it in the best manner I possibly could, and that is, whether it was a magistrate or any other person, I was satisfied from the quarter I gave my information to, that it was well known that there were these societies.

Did you hear my question?—Yes.

Then surely you could not consider that as an answer if you did; I put this question—was the person to whom you communicated your reports in the month of October 1792, a magistrate of any species or description, from a justice of the peace to a secretary of state?

*Lynum*.—If I am by your lordship's direction to answer this question directly, I certainly will.

Lord Chief Justice *Eyre*.—I think you may say that it was or not to a magistrate?—It was not to a magistrate.

Mr. *Erskine*.—Then to whom was it?

Mr. *Attorney General*.—I object to that question being put; the principle which admits that it ought not to be asked if it were to a magistrate, admits that it ought not to be asked as to any body else; for my part I cannot see what it has to do with the justice of the case.

Mr. *Erskine*.—I am surprised at this objection; is this man to be let loose for seven hours with written papers, and am I not to be permitted to try his credit? when he says that in the month of October, 1792, he informed a person of these transactions, am I not to be permitted to ask him who the person is to whom he made those reports? if he answers it was to such an individual, may I not call that individual in order to show peradventure, that these reports had no existence at that time, or that he did not show them to the person named? I shall be perfectly satisfied with whatever judgment the Court please to pronounce upon this occasion, but I certainly think it my duty to insist upon the question.

Lord Chief Justice *Eyre*.—It is perfectly right that all opportunities should be given to discuss the truth of the evidence given against a prisoner; but there is a rule which has universally obtained on account of its importance to the public for the detection of crimes, that those persons who are the channel by means of which that detection is made, should not be unnecessarily disclosed: if it can be made appear that really and truly it is necessary to the investigation of the truth of the case that the name of the person should be disclosed, I should be very unwilling to stop it, but it does not appear to me that it is within the ordinary course to do it, or that

there is any necessity for it in this particular case; all that this witness says is, I did this upon advice; I did from time to time communicate with a friend for the purpose of its being communicated to a magistrate, and in that manner it was that I came to know these transactions.

If there is a rule that the channel by which those communications are made should not be disclosed, that rule I think will extend to this case: I rather think that we have this day determined that there is such a rule, and I cannot satisfy myself that there is any substantial distinction between the case of this man's going to a justice of the peace, or going to a magistrate superior to a justice of the peace, or to some other person who communicated with a justice of the peace, because the communication to a justice of the peace, though it may be extremely necessary for the purpose of bringing offences to light, yet will not of itself amount to any evidence.

Mr. Gibbs.—With great submission to your lordships, the way in which the question was put to the witness by Mr. Erskine, was in order to sift his credit, whether what he said now was what he had always said; he asked him this, not who employed him, but whether he had communicated to any body what he had observed at the meetings of these societies; his answer was, that he had communicated it to a friend: Now with great submission to your lordships, it is the common practice, that when a man's credit is sifted by being asked whether he has ever told the same story to another person, and he says he has told it to a particular person, he is always asked who that particular person is, if the gentleman who is examining him thinks it worth while to press the examination to that extent.

Lord Chief Justice Eyre.—I believe in general, where it is not at all accompanied with the circumstance of its being a channel of communication to government for discovery, that what you say is true; and the only question is, whether there be such a rule for the sake of enabling the crown to watch over and detect great offences, the channels of communication are not to be disclosed. If there be no such rule as that, your proposition is right: it appears to me that there is such a rule, and that we have this day determined that such a rule exists; and I do not feel a distinction between this case and that.

Lord Chief Baron Macdonald.—Ask him if it was any servant of the public.

Mr. Erskine.—Was it any servant—

Mr. Attorney General.—I am sure I am addressing a Court that will always excuse a counsel, in any situation, who is acting upon public grounds, if he should happen to be mistaken. I submit to your lordships, that the question which Mr. Erskine was about to put to the witness, is not a question to be put. With respect to what has been stated, as the principle upon which the question was origi-

nally put, your lordships will permit me first to state what was the fact at the time that this objection arose. My learned friend asked the witness, whether the person to whom he made the communication was or was not a magistrate? As I understood the answer of the witness, it was to this effect; that he made the communication to a person who was in such a situation that he had no doubt that the conduct of those societies would be watched by those whose duty it was to attend to it. The question immediately put upon that was, if it was not a magistrate, who was it?

Now I know I ought to state with great diffidence, any opinion of mine upon a question of evidence, not having for years attended any of the courts of law, not knowing what the practice of the courts is at this day, and not being therefore able to state from principle what rule is to be deduced from that practice; but in the course of the early period of my life I have had a good deal to do with this sort of business in the courts of law, and I beg humbly to state my own opinion, that if the rule with respect to asking a question of a witness be that he is to disclose the channel of communication to a magistrate, that a question pointing at persons who stand in situations, where they cannot be strictly stated as acting as magistrates, but at the same time have respect to the public office of magistracy, is a question that is not to be put.

My friend says, ought I not to try the credit of the witness? I happen, in the habit of my own profession for the last six years, to know the practice in the court of exchequer; it is a sort of thing that occurs every day: a witness says, I had an information that the defendant had committed an offence against the revenue laws, for which he would incur a forfeiture of thirty thousand pounds, if you choose so to state it. What is the principle upon which the Court says, you shall never ask where he got that information? It may be said, it is necessary I should know this, because it may be extremely essential in trying the credit of the witness who speaks to other facts, that I may know his credit as to other facts, by trying how far he is credible to the facts he states of A. or B. But what says a court of justice? A court of justice does not sit to catch the little whispers or the buzzes of popularity; it proceeds upon great principles of general justice; it says that individuals must suffer inconveniences, rather than great public mischief should be incurred; and it says, that if men's names are to be mentioned who interpose in situations of this kind, the consequence must be, that great crimes will be passed over without any information being offered about them, or without persons taking that part which is always a disagreeable part to take, but which at the same time it is necessary should be taken for the interest of the public. I say then, that the objection to the question now proposed to be put,—always stating that objection with the utmost deli-

rence to your lordships, which I do from a sense of duty founded upon what I think the clearest principle of duty to every individual who forms a part of the community—I state this—that after the witness has distinctly said that he mentioned this to a person who was to communicate it to those who would necessarily take care of the interests of society, in consequence of that information being communicated, that that channel of communication brings the name of that person within the rule the Court has laid down.

Mr. Justice *Buller*.—Did the witness say he mentioned it to this friend for the purpose of its being communicated to a public officer?

Mr. *Erskine*.—No.

Mr. Justice *Grose*.—“I am satisfied that from the quarter where I gave my information the societies would be known;” I believe those were the words.

Lord Chief Justice *Eyre*.—I have it thus: “He made a report to one, who, he was certain, would communicate it, but not to a magistrate.”

Mr. *Gibbs*.—I think he said before that, “I consulted with a friend who recommended it to me.”

Lord Chief Justice *Eyre*.—He did so.

Mr. *Erskine*.—The manifestation of innocence is as great a principle in the administration of justice as the punishment of crimes.

Mr. *Attorney General*.—Most surely.

Mr. *Erskine*.—I will go back again, with the permission of the Court, in my examination. You told me that in the month of October, 1792, you made a report; by making a report, do you mean that you showed that book to any body in November, 1792, from which you have been now reading?—I did not. Your original question was, to know how it was that I gave a communication; there has been a misunderstanding, how it was that I did give any information; I told you I was advised by a friend to give a communication, and that from him I was recommended to give that communication, and I gave it in a quarter—I believe these were the express words—I gave it in a quarter that I was well satisfied that it would be known, that there were these sort of societies in London; the mistake that has been made is, that I continually communicated with this gentleman that I first of all consulted: I never saw that gentleman afterwards, but the channel, the quarter that he directed me to, I pursued all the way through.

You were advised by a friend, to whom, no doubt, you had communicated what you knew, to make that communication to a person whom that friend recommended?—Just so.

Was that friend, who advised you to make that representation, a magistrate?—No.

Then who was that friend?

Mr. *Attorney General*.—I really must object to the question.

Mr. *Erskine*.—My question is not—who the person is to whom his friend recom-

mended him to make the communication, because he has said that the person he went to, by the recommendation of his friend, was a channel from whence government was likely to be informed; therefore I did not mean to put any question in the teeth of what the Court have resolved: but I have only this to say, that I was not present in the morning when your lordships determined it. My question now is, who was the friend (which friend was not a magistrate) who did advise the witness to make the communication to another person?

Lord Chief Justice *Eyre*.—If the principle be right, I am of opinion it extends to that question, because the disclosing who the friend was that advised him to go to a magistrate, is a thing which puts that friend in a situation into which he ought not to be put, and into which it is inconvenient to general justice that he should be put.

Mr. *Erskine*.—Supposing, for instance, that I were in possession of evidence, but which I could not possibly produce to contradict this witness, that he had made no such communication to any living being at that time; that this is all an invention and fabrication (I state it only for argument's sake, which I have a right to do), how is it possible I should do it, if I cannot be allowed to extract from the witness who the person was to whom he made the communication, and who advised him to give information to some other person? It will be asked, is it an honourable thing? Is it to be supposed that, in this country, the law and the liberty of the subject—and, I trust, that the law and the liberty of the subject will always go together, and I hope in God that the time will never arrive when the huzzas of popularity shall be against the government and administration, but that the government and administration shall be so conducted as to carry along with them those huzzas of popularity which always attend a government well administered—if that be so, all I want to know is, that which can expose no man to contumely, namely, that he has advised a person, who tells him that he has discovered something, which, erroneously or otherwise, he conceives to be a conspiracy against the public, and, he says, go to a magistrate.

Suppose I were to advise any man who told me he had discovered something which he thought the public were interested in knowing; I should say, I am busy, I am no magistrate, I advise you to go to the secretary of state, and tell it; should I think I was at all brought in question for having given an advice which I could stand to in the face of the whole world? how then can the public be affected by it, if I was to go on to ask him afterwards, who is that friend to whom you made that communication? If it were not for what the Court has already pronounced, I should say, that the same argument will even go farther, namely, that if I were to call upon



the man to whom he made the communication, I could not extract from that man any thing he said, but I could ask that man, did the witness make the communication to you? Suppose the witness says, I communicated this in the month of November, 1792, to Mr. White, the solicitor of the treasury, should not I have a right to ask the solicitor of the treasury, whether that fact were true or no? I could not go on to ask Mr. White what he did communicate to him, but I could ask him, whether, in point of fact, he did communicate it to him? And if he were to say, I never saw the man in the month of November, 1792, at all; I got the communication from another channel; I never saw his face till I saw him in this court, would not that shake the credit of the witness with any man of understanding? I apprehend it would.

It seems to me, therefore, with the greatest submission to the court, that the public is guarded by that distinction; and, in the course of the discharge of my duty at the bar, I hope I shall so distinguish the cases, that, in preserving the lives and liberties of those who are to be tried, the law and constitution of the country may thrive along with them; and they never can thrive unless they thrive together. I think there is wholesome justice in it. All I propose to ask this witness is the first question; I cannot ask the second, because I will not attempt to ask what the Court has decided must not be asked; I submit he must state the name of the person to whom he communicated it; then have I not a right to subpoena that person? I will then ask, when did you tell it him? at what place? who were present? Then I ask that person, is it true? But if I were to go on farther, and ask, what did he communicate? in order to try the truth of this writing, there your lordships would stop me. I apprehend that is the distinction.

Mr. Gibbs.—I submit to your lordships whether this is not the distinction: That where an informer in the Exchequer proceeds upon an information of facts—communicated by another person, that he should not be called upon to disclose the person giving him the information: But it is perfectly new to me, I confess. I have no doubt it is my ignorance, I mean blamable ignorance, because I ought to be better informed in my profession; but I never have met with an instance in which it has been objected to asking a witness, upon cross-examination, who the person was to whom he communicated a fact that he states, because it happens that the person to whom he did communicate that fact, did advise him to communicate it farther to a magistrate. I know it is established in the court, in which your lordship long presided, that where an informer has communicated facts to a person, and that person has acted upon the communication of those facts, they cannot ask who brought those facts to his knowledge; but when you ask a witness

†

whether he has communicated it to any other person, and he tells you he has, whose name he does not mention, because he says that person advised him to communicate it to a magistrate. I think it never has been held, in a court of justice, that that was an objection to the question.

Lord Chief Justice Eyre.—There is some doubt in the court how the fact stands; whether, in consequence of the first advice that he received from his friend, he afterwards disclosed those circumstances to the same friend, by whom he supposes it to be communicated regularly to some magistrate; or whether he applied to some other person. I understood him that he applied to some other person himself.

Lord Chief Baron Macdonald.—My reason for wishing him to be asked, whether the person, to whom he originally made the communication, was a magistrate or not, was exactly upon the same principle as my lord chief justice now states. I could wish it to be distinctly known, whether the person to whom he first mentioned it was the person who communicated it to a magistrate, or a person who simply advised him to communicate it to a magistrate.

Mr. Attorney General.—I wish to have it understood that the objection I now take is this: That Mr. Erskine has no right to ask the witness who it was that advised him to give the information to a person who stands in the situation of a magistrate; for, I say, the person by whose advice the information is given, is to all intents and purposes, the informer. I wish to explain myself; who this person was, and what effect it may have in the evidence, it may be impertinent to suggest; what it is intended to prove, really I do not know; but your lordships will recollect that I stand here as the prosecutor for the public; if I were in my own cause I could sacrifice, at my own pleasure, principles which appear to me to be the principles of public justice; but, in the situation in which I stand, I do not know how I can regulate my conduct better towards the public, and towards the prisoner, than by acting upon the principles of law, as I understand them, admitting at the same time, that no man is more likely to be mistaken: but this I will say distinctly, that I would not trouble your lordship with the objection that I am now stating, if I were not perfectly convinced, upon the best judgment I can form, that the question cannot be put to the witness; and I mean, according to my duty, and with very humble deference to your lordships, to beg to have your lordships' opinion.

I know very well that it may be strongly argued, as it is very strongly argued by my learned friends, why, how are we to find out whether a witness does or does not speak truth, if we cannot ask him this sort of question—who advised you to do so and so? Suppose he says Mr. White, the solicitor for the

treasury, should not I call upon that gentleman?—not, says my learned friend (and I wish your lordships to try this reasoning), not to ask what were the particulars of the communication, but to ask the fact, whether this person did or did not advise with him in the year 1792? Now what is the reason that you cannot ask the particulars of the advice? The very same reason why you cannot ask to the fact, whether he advised with him or not, videlicet, that in the given case it supposed a principle of public justice, which overbalances the private mischief that happens in the case stated.

In the Court of Exchequer it unquestionably happens every day, that a witness says I received an information that there were run-goods at such a place, I went there, and found them. There it is impossible to deny that the reasoning is just, which says, that the credit of a witness may be tried by asking him, whom did you receive the information from? where; under what circumstances? and if the man were bound to answer to those questions, and he had spoken falsely, with respect to the when and the where he had received it, or under what circumstances, if it rested upon his evidence, when you had falsified it with respect to the preceding particulars, you could not believe him as to the subsequent particulars, and the defendant must be acquitted. Nobody will deny but that it is a hard case, but it has become a settled rule, because private mischief gives way to public convenience; and it is an hardship which occurs in particular cases, in consequence of the necessities of public justice.

To explain myself—without making any professions respecting my own conduct, I might fairly say, I ought to have my gown stripped off my back, if I, acting upon any thing but conviction that I am right upon principle, and a principle that I cannot, in my situation, sacrifice—suppose the prisoner now trying, in the course of a transaction of that kind, where the consequence of his being convicted was not what it is in this sort of case, but that which, with respect to his pecuniary fortune, would ruin him over and over again, the abstract justice of the case is exactly the same; and yet it is quite clear that that direct question, who gave you information, in consequence of which you prosecute for those penalties which are to ruin the defendant? could not be asked. Then I ask this, whether, in common sense, and upon principle, the man who advises him to inform, is not substantially and really the informer—and whether the principle of law, which has said that you cannot ask this question, because the consequence of asking the question will be, that those who may not have nerves so strong as my friend and myself, who would not care a farthing if our names were mentioned; but great numbers of persons in the world would not choose to have their names mentioned on such occasions; and with respect to that

feeling, call it fear, or imprudent reserve, it is a substantial principle in law, that a man shall not have his name disclosed.

I have thought it my duty thus to state the grounds of my objection. I have made it, because I am convinced the objection is right; when I state that, your lordship will easily believe, I do not mean to contend that it is right, because I am convinced it is right, but because I cannot, I think, discharge my duty to the public without stating my objection as I feel the objection; and in cases of this great weight and importance, and indeed in any case, I do not know how the attorney-general of the country can proceed more safely than according to his own notions; they may be mistaken ones, but according to his own notions of what the rule of justice is.

Lord Chief Justice Eyre.—I, for my own part, adhere to my opinion. I think we must stand upon the principle, and that when we run into very nice distinctions upon a principle, we get into difficulties from whence I never know how to disentangle myself, or to relieve my mind. The question is, whether, if it be opposed, any of the channels, by which this information and discovery comes to the officers of the crown, should be unnecessarily disclosed? I say unnecessarily, because it is no part of this fact at all whether this man did or did not mention this circumstance to this friend of his, or whether this friend of his gave him any particular advice. The only way in which it is permitted to be asked, is, because it may enable the defendant, by drawing out circumstances collateral to the fact, to establish a contradiction to the witness upon those collateral circumstances, and so to affect his credit. Now that would be true of every question that the wit of man could suggest; yet, undoubtedly, there are many questions which, even upon a cross-examination, a counsel is not permitted to ask. My apprehension is, that among those questions which are not permitted to be asked, are all those questions which tend to the discovery of the channels by whom the disclosure was made to the officers of justice; that it is upon the general principle of the convenience of public justice not to be disclosed; that all persons in that situation are protected from the discovery; and that, if it is objected to, it is no more competent for the defendant to ask who the person was that advised him to make a disclosure, than it is to whom he made the disclosure in consequence of that advice—than it is to ask any other question respecting the channel of communication, or all that was done under it. I never can distinguish, for my own part, the cases; if my brothers are satisfied there is such a distinction, I shall be glad to submit to their opinion; but I think the principle extends to this case; for, undoubtedly, an immediate answer to the question puts the person who gave this advice, into the situation described by Mr. Attorney General, of being, in substance, the informer.

to government of this transaction which this man discloses. I am of opinion, therefore, within the general rule upon this subject, the question ought not to be asked.

Lord Chief Baron *Macdonald*.—It seems you are agreed now with respect to this fact, namely, that the person, to whom the witness says he made the first disclosure, was neither a magistrate, nor any person concerned in the executive government of the country, and that from that person he received advice no longer to apply himself to him, because that was of no use, but that he should apply himself to some person, either in a magisterial character, or in some way concerned in the government of the country. There is no rule more sacred, undoubtedly, than that you ought not to ask any witness a question by which it should be disclosed to what magistrates or officer of the executive government he gave communication; and were I satisfied that the friend, to whom he disclosed this matter, was in any way a link in the communication, or a channel truly and substantially in the communication, I should certainly think that rule applied to him. On the other hand, it seems to me that upon a cross-examination it is material, when a person at a distance of time gives an account of transactions, to know whether it was then for the first time that he gave that account, or whether he gave that account recently after the transaction, or when he gave it, as that is a matter from whence important inferences may arise for the defendant.

I think that that question should be asked, unless there should be a very great public inconvenience on the other side, which renders it much better for public justice in general, that the defendant should lose the benefit of that question. In the particular instance it does appear to me, that a person not executing magistracy is in no situation to make it dangerous. A mere private person simply saying, do not come to me, but go to some person that can be of use, I think—as no possible disadvantage can arise in a case of that kind—it is a fair question to be asked, in order to ascertain how a matter of this sort, alarming him, and attracting his attention, was or not revealed by him. I mean to draw the line distinctly in this way, that this person not being connected either with magistracy, or the executive government, it does not seem to me, in point of fact, to fall within the rule, which rule I hold sacred.

Mr. Baron *Hotham*.—The witness has said, he communicated this to his friend, under an impression and full persuasion that through him the intelligence which he gave was to be conveyed to a magistrate; that he has distinctly said. Now the question, as it seems to me, does turn upon the principles of public policy. I confess, for my own part, that upon those principles I cannot see any distinction between making a disclosure to the magistrate himself, or making it to any person who

is to communicate that disclosure to the magistrate; the principle is, that public justice demands, in many cases, that sort of secrecy, without which government could not be carried on. There are many cases, we all know, where it is of the last importance to us all, that such secrecy should be observed; and it is admitted on all hands, that if the communication is made to a magistrate, you shall not oblige the witness to disclose who that magistrate is; that is for the purpose of public justice to the country. Now here this man has communicated to his friend for the purpose, and under the persuasion of his going directly to a magistrate, being advised by him to do what he did. I cannot myself, I confess, distinguish the situation of that friend from the situation of a common informer---and we know very well that it would not be permitted to ask that question of him—here I consider this (I am sorry to differ from my lord chief baron) as a link of the same chain; I do consider that it makes no sort of difference whether the intelligence is directly conveyed to the magistrate, or by more indirect means; the purpose for which it is disclosed to this man is, that of being conveyed to the magistrate; and I think upon principle that public justice would be defeated if such a thing was allowed.

Mr. Justice *Buller*.—Cases have been alluded to respecting offences committed against the revenue laws, and therefore I paid the utmost attention to what has fallen upon this subject from my lord chief justice, my lord chief baron, and my brother *Hotham*, because they are better acquainted with those cases than I am. The principle, as taken from them, I should be disposed to pay the utmost deference to, and I think I do not differ from my lord chief justice in the principle he has laid down: perhaps in the application of it I shall differ only a little, and I fancy my brother *Hotham* and I differ in the application of the law, rather than in the application of the facts.

My lord chief justice, and my lord chief baron, both say, the principle is, that the discovery is necessary for the purpose of obtaining public justice; and if you call for the name of the informer in such cases, no man will make a discovery, and public justice will be defeated. Upon that ground, therefore, it is, that the informer for the purpose of a public prosecution, shall not be disclosed. This principle goes to exclude the question respecting the second person, that is, the person to whom the witness, after having consulted his friend, went to disclose all that passed; but the material thing to be considered here is, whether the witness should answer the first question. Now let us see how that fact stands. I agree with my brother *Hotham*, if a middle man is made the channel of communication, he ought to receive the same protection as the first person to whom it is mentioned; but upon the fact of this case I take it to be quite otherwise, because the witness



according to the evidence he has given, does not communicate to another man, for the purpose of prevailing upon that other man to go to a magistrate to make the disclosure, but consults him merely in the character of a private friend, reserving in his own breast to determine afterwards whether he should or not make that discovery, which should or not draw the attention of any person in office,

Now if his first conversation was merely with a private friend, in order to make up his mind whether he should or not make the discovery to some person afterwards, for the purpose of inquiry or prosecution, and reserving in his own mind whether he should or not follow the advice of that private friend, it seems to me the case is different, and this is, I think, an answer to the arguments Mr. Attorney-general has used; he has ably and ingeniously put it upon this ground, that the person who gave the witness the advice is, to all purposes, to be considered as the discoverer. I cannot agree to that, because it never was the intention, in the communication made by the witness, that his friend should be the discoverer; he only asked him some questions for the purpose of making up his own mind whether he, the witness, should make the discovery or not; therefore I cannot consider that person who was merely consulted as a private friend, as being the discoverer. My opinion upon the whole is, that he ought to answer the first question, but not the second.

Mr. Justice *Grose*.—In this case, it seems to me, that we all agree about the principle, the question is, who is right in the application of that principle; for we do most perfectly agree in this principle, that the name of the informer is not to be disclosed: that is the law stated; that is the law agreed and argued upon by the counsel on both sides. Then the question in this case is, whether this person, whose name is asked, is to be considered as the informer. Now the evidence is this; I consulted with a friend, who advised me what to do, and to make a report. I did so, and I have done it from time to time. Then in consequence of whose advice is it that this is done? In consequence of this man's advice, whose name is now asked. If it is in consequence of his advice, I must confess it does seem to me that, essentially and substantially, and according to every idea of good sense, he must be considered to be the informer: But it is very true that, perhaps in the course of this investigation, the name of some other person may be inquired, whose name it may not be competent to ask, and the reason may be this, that in the course of this business there may be more informers than one, and the same principle that applies to one, will apply of course to the others: and when I find that the evidence is, that this man advised the witness what to do, I must confess that the witness having acted in consequence of that advice, he seems to me to be as essentially

the informer as any one person can be in this case, because if it had not been for his advice, *non constat*, that this would have been done. I therefore, however unwilling I am, and I am always exceedingly unwilling in a case where life is at stake to shut the door of evidence; yet where a point of great constitutional law, that which is to affect the public justice of the kingdom is in question, I must decide upon it as my conviction tells me is right, at the same time lamenting that there should be such a difference in the Court as there is now, because I am very willing to confess, that it has not been the habit of my practice, never having sat in that court, where those questions most frequently arise, to decide upon those questions; but however the little ability I have I must employ upon the subject; and taking the rule and the principle to be that the name of the informer is not to be disclosed, I can only look to whether this person, whose name is referred to, is the informer or not; he appearing to be essentially the informer, I think, according to the rule of law, the question ought not to be put.

Mr. *Erskine*.—Did you communicate any other part to this person from whom you received that advice?—No.

Was that before or after you had been at the society?—After.

How long after?—I communicated it in the month of October: immediately after I knew that there were societies of this sort, I communicated it to this friend of mine; he is a gentleman of very considerable property—

Let us have nothing about him. Now you know it is not legal to name him, you are going to give me a description of him?—His advice to me was, to give information: this was after I was acquainted that there was such a society as the London Corresponding Society; in consequence of that advice I gave information immediately, which was in the same month of October, 1792, and I continued it to the month of February.

Did you communicate your reports in writing from time to time?—In writing.

Did you give copies of them?—I gave copies.

You have nothing else, have you, in your book, except that which relates to this business?—I do not immediately recollect—I believe I have some.

In that book from which you have been reading most of the day?—I have two of them.

Is there any thing that relates to your private business in either of them?—I have some private memorandums.

Fold them down, if they are loose; we do not want to concern ourselves with your affairs, or any thing that does not relate to this business. Did not you appropriate these books for this sort of information?—I did.

What leads you then to ~~answer~~ that there are any other ~~particulars~~ other business ~~than~~ because I

formation from different gentlemen; and, occasionally, I made a memorandum of that communication, and I should not wish for that to be seen.

Look over your book.—It is impossible for me to do it in this light; I will look the book over; I have no objection; I will go into any room and look it over, and I shall give you the book with the greatest pleasure imaginable.

I am not asking any favour of you, or wishing for any thing that I am not entitled to have.—I do not wish, by any means, to report any thing but what is absolutely the fact; nor would I wish to withhold any thing that I do not think is right to be withheld. I know there are some private memorandums, and it is impossible for me to look them through now, while I stand here.

Then take those out, and let us have the book to-morrow.—I am very ready and willing.

Mr. Attorney General.—You will attend to what the gentleman says?—I am perfectly willing.

Mr. Erskine.—You have some papers that are not mixed with any thing of that sort?—I am not sure that there are no memorandums of that kind on them.

Was it the custom at these meetings of the delegates of the Corresponding Society for the members to take notes of all that passed?—That was always a regular rule.

For every delegate to set down every thing that passed?—Sometimes there was a communication which has been conceived by the chairman not proper to be communicated to the divisions; and Margarot has said, you must not communicate this; and as to this book that you are asking for, the delegates were allowed to take reports or information, whether from the chairman, or any of the delegates, either with regard to a letter, or any other matter. The chairman has said, though you are informed such a thing has been wrote or has happened, though you are allowed to take a minute of it, we tell you it is not fit it should be communicated to the divisions; but that notes were allowed to be taken at all times is true.

I am not asking what was allowed, but whether it was the practice?—It was the practice every night.

It was the practice for other members to do as you have been doing, to set down in a loose paper, or in a book, all the transactions that then happened?—It was.

And the substance of what every body said?—I have heard of some reports made by other people; this circumstance might strike me, and another circumstance might strike another, which I might not take particular notice of, or think it worth while to put down.

I do not profess that what you have a regular account of the most occurred; but that they are suitable for your pur-

pose to set down?—I do not know how to answer that question, as you put it, I do conceive that a delegate being sent to know what business the society was transacting, that he should take the best account of it that he possibly could.

That was when a man was really a delegate, but you were not there as a real *bona fide* delegate, but for the purposes of justice?—I was elected a delegate, as I stated, in the beginning of November, 1792, and continued so till the month of June, 1793.

I do not seem to make myself understood; did you set down every thing faithfully that passed, or only select such matter as appeared most material for the public to know?—I put down every thing I possibly could; but I did not put down every thing that did pass, nor was it in the power of any of the delegates to do so; but it was the invariable practice of the delegates to make minutes either upon paper, or in books, for the purpose of communicating what had been transacted at the meeting of delegates at the next division, at their meetings, on different nights, from Thursday to Thursday.

Then those are the very reports that you would have made, had you been *bona fide* a delegate, and doing your duty as such to that society?—I made these notes as a real *bona fide* delegate to No. 23. I made those reports at that division.

Have you been in no other way of dealing, but an ironmonger, and in this commission way? have not you kept a china shop?—Never.

When you communicated to this person, who, you thought, would go and communicate it to a magistrate, did you rest satisfied that your friend would do so; or did you at any time go to a magistrate yourself?—I informed you, when you asked me that question, that the information was not given to a magistrate: I told you that it was by the advice of a friend, who confirmed my own opinion, entertained at the first. When I found this society at the sign of the Mansion-house, it was absolutely necessary it should be known; he recommended me to that quarter, which quarter I was persuaded was that of a certainty.

Lord Chief Justice Eyre.—You are asked a simple question; did you yourself go to any magistrate?—I went to no magistrate; but was advised to go to another quarter, and I went to that quarter.

Lord Chief Justice Eyre.—I wish you would not overpower the counsel or me with words. You are asked a simple question, whether you did, or not, go to a magistrate?—I did not.

Mr. Erskine.—Did you learn from your friend, whose name I do not ask, whether he had, in point of fact, laid from time to time, the communications before a magistrate, that you laid before him for that purpose?—I gave that information myself.

Did you deliver your reports, from time to

time, to that quarter; or did you deliver them immediately to some magistrate?—I sent them to that quarter.

When you say that, you mean you sent them to that person, to whom your friend recommended you to send them?

Lord Chief Justice *Eyre*.—He never said that his friend advised him to a particular person; if he did I have mistaken him.

Mr. *Erskine*.—Did your friend advise you to lay them before a particular person?—He recommended me to a particular quarter.

A quarter; was it a man or a woman?—That I cannot answer.

Mr. *Erskine*.—Not whether it was a man or a woman.

Lord Chief Justice *Eyre*.—Certainly not.

Mr. *Erskine*.—Was it to any particular person that you were advised, by your friend, to make this communication or did he only advise you generally to make this communication, to somebody?—The best way of explanation is to say, that the person he recommended me to, recommended me to a third person, and to that third person I gave the information, and continued it all the way through.

Mr. Justice *Buller*.—Mr. *Erskine*, you cannot pursue that question farther.

Mr. *Erskine*.—How long was it after the time when you were tried and acquitted, before you came to the society again?—I attended the society all the way through, though not as a delegate—I was a delegate to February, 1794.

I observe you do not take down who it was that made use of any particular expressions?—In the course of the memorandums that I have made, I have got names.

I know you have—in general in your book you do not profess to have taken down the words, but only the substance?—Yes.

If a person delivered any opinion, which opinion might be at some length, you made the best abstract of it that you could, merely to say that that was his opinion or his argument?—It is so; names are put to some, and not to others.

If any individual reported a paper, made an observation, or made an argument, you took down just an abstract of that, in your own language?—I did.

Were they taken down, *bonâ fide* to be reported as a delegate, or were they taken down for the purpose for which we have had them here?—They were taken down for the purpose of reporting as a delegate, and for the other purpose too.

Then it was perfectly *bonâ fide*, with regard to the society, and, at the same time, *bonâ fide* with regard to the public?—Just so.

Have you made any alteration in your minutes since the time you made them?—I have not; but I was going to say this, there are some private memorandums that are in this book, which do not belong to the society; those private memorandums are wrote at the

back of the society's minutes; those are such as, I think, it would be very improper for me to deliver up, and therefore I wish to know what I am to do in that case.

Cannot you paste something over them?—I could do it, if I were allowed time.

Lord Chief Justice *Eyre*.—It is always usual, and very reasonable it is, when a witness speaks from memorandums, that the counsel should have an opportunity of looking at those memorandums, when he is cross-examining that witness. If there is any thing that you say, upon your oath, does not relate to that subject, but some other subject, to be sure it is impossible that it could be asked, that that should be seen; how to arrange that in a very long evidence, like this, is among the difficulties of so extraordinary a case as this is; we must struggle with it as well as we can; whenever you are at leisure to go through the subject with him, if he holds his papers in his hands, you can ask him, as to his minutes, if they could be separated by pasting over, or if, with safety, by obliterating those parts—

*Lynam*.—I could obliterate them with a pen and ink, but there is no erasure, to my knowledge, as they stand now.

Lord Chief Justice *Eyre*.—Could you obliterate those memorandums which concern other people, with a pen and ink?—I could.

Lord Chief Justice *Eyre*.—Have you any objection, Mr. *Erskine*, to his obliterating his other memorandums with ink, you inquiring of him, upon oath, whether he has obliterated any of those articles to which he spoke, when he gave evidence?

Mr. *Erskine*.—None.

Lord Chief Justice *Eyre*.—In a common case, it is the usual course, for the counsel to take the memorandums in his hand, for the cross-examination, but, in this case, I do not see how it is possible to do this; this is a history, an important and material history, to be sure, of the different branches of this society as it is formed into divisions, acting by commission of delegates for the whole; and it has so happened, that here are the transactions both of the divisions, and of the delegates, that are now laid before the jury; of course it must run into great length; I cannot say into more length than its importance requires; we are ready to do all that we can to assist you, consistently with not obliging him to discover what does not relate to this cause.

Mr. *Erskine*.—Am I to understand you (and this is the only question I shall put till I see these minutes) do you mean to re-swear that what you have read to-day, as minutes taken at the time, are the same minutes which you would have, *bonâ fide*, taken as a delegate, had you not had this other which you have before described?—I swear that.

And the other delegates of taking similar  
Lord Chief—



him to say, that he did, in fact, make his reports from these minutes; if he did not make his report to the division from these minutes, he must have had another set of notes, for he must have made some, from the nature of the thing; for they were to report to the division every thing that passed among the delegates, that did not come under the head of secrecy, on the next day of holding that division meeting; therefore it must be from some materials; consequently, if he has dealt fairly with us, these are the minutes.

Mr. *Erskine*.—I shall only desire to look at them in the morning; perhaps I shall not put any questions.

Lord Chief Justice *Eyre*.—I should, if I were in his case, put the book into your hand, without any difficulty, stating the parts that do not relate to this cause;—then he will take his minutes, and obliterate those parts that do not relate to this cause against to-morrow morning.

Mr. *Maclean* called again.

Mr. *Attorney General*.—Did you find that paper [showing it to the witness] any where?—Yes; I found it in the house of Mr. Adams.

[It was read.]

Extract of a Letter, dated Sheffield, 13th of October, 1792, signed, “The Editor of the Patriot,” addressed to Mr. Andrews, secretary to the Society of the Friends of Universal Peace, and the Rights of Man, at Stockport.

“It only remains then for us, seeing the great and innumerable difficulties we have to encounter, to cast about for the most likely and proper means and weapons by which to defend ourselves, and to forward and support such measures as it may be necessary to pursue; and on this head, my good sir, permit me to impress it on the minds of your society, that reason, imperial reason, must ever be our generalissimo, or commander in chief; when I say this, I beg leave to add, that art must be second in command; by the word ‘art,’ I do not mean craft or cunning, but that mode of application of our reason and arguments on different men, and on different occasions, which only a considerable degree of study, and practical knowledge also, of men and manners, can ever furnish us with, so as to make us proficient.

“Allow me then to observe to you, sir, that I perfectly coincide with you in opinion, with regard to the different societies appointing delegates to go into the different villages, and country places, for the purpose of informing their minds, and rousing them from the lethargy in which they seem plunged. I have already communicated the same idea to

London Constitutional and Corresponding  
to those of Norwich and Man-  
will soon be universally  
the grand object

to be attended to, on this head, is the choice of men to be appointed; a neglect of this kind had like to have had very awkward consequences in this neighbourhood, and, if not immediately checked, would have injured the cause of freedom very greatly; infinite care and circumspection will therefore be necessary on this head.

“As I am on the subject, permit me to suggest to those members of your society, who may undertake this arduous, but honourable and praise-worthy task, that they cannot be too cautious in their mode of proceeding. The minds of men, for the wisest and best purposes, are formed by the great Creator as various and unlike each other as their faces, and their passions reign over each with the same uncertain and variegated sway: and in the same manner that sir Robert Walpole (one of the elders and fathers of corruption) very justly observed, that every man has his price in the way of being bought; so we may fairly apply the same maxim to mankind in general, in the article of persuasion, and the dextrous method of bringing them from wrong opinions they may have formed, or prejudices they may have imbibed, by an attentive observation of their intellectual faculties, and that leading passion of the soul which governs the main spring of their most material actions. For example, the generality of farmers in this county and Lancashire, are as ignorant as the brutes they ride to market, and so absorbed in the sordid idea of getting, that, provided they can keep up the prices of grain, cattle, &c. so as to answer their landlords, and pay their taxes, however enormous, they are too sluggish and indolent to think about reforms, or any thing of the kind, yet there is one string about their hearts, which, being skillfully touched, will make them dance to any time, and move to any measure. This is the subject of tythes; and why does it touch them? Why sir? Because it is within the scope of their limited capacity. Ignorant as they are in other matters, they see and pungently feel the weight of this baneful and unjust devourer of all their improvements in agriculture and husbandry; and I believe, did every tax operate in the same visible degree which this imposition does, I fear there would be an end to the idea of taxation being submitted to at all. Indeed, as taxes are laid on, at present, by those who do not represent us, the taxation is neither more nor less than a robbery; a submission to it, slavery.

“But to return to my subject. In the same manner that a farmer may be roused by the mention of tythes, the shoe-makers may by the excessive dearth of leather, the inn-keeper by the numerous and unnecessary standing army, and all by a temperate and dispassionate relation of the immense number of sinecure places, and useless offices, in which the corrupt and prostitute favourites, agents, and dependants of the rich and great

riot in the spoils and plunder wrested from the sweat of the brow, and continual labour of the body of the husbandman, the mechanic, the labourer, and the artificer. It is by no means a difficult matter to raise general indignation at the idea of so small a comparative number of useless, idle, and profligate drones, sucking and squandering away the honey produced by such immense numbers of hard-toiling and industrious bees. If you (for I am certain you will be one of the most active of these delegates) meet with men who have violent prejudices in favour of any abuse or party, never attack those prejudices directly, for that will only inflame and confirm them the more; pass them over for the present, and engage their attention towards something else, in which they will listen with a less degree of apprehension of being attacked in a favourite point; once gain their good opinion, and open their eyes to one evil, they will be more ready to hear you on others; till, at last, the favourite object by which their eyes were jaundiced, will appear in its true colours, and fall before your arguments like all the rest.

"There is one thing above all others which requires to be particularly attended to, and that is, to endeavour to undeceive the mass of people, with respect to those falsehoods which have been industriously propagated by the enemies to a reform, in order to blind, delude, and terrify all ranks of people who are any way independent, or possessed of property. One of these falsehoods is, "that the advocates of reform wish to introduce a 'levelling scheme, or an equal partition of 'property.' This alarms the farmers, and indeed all classes of men, who, by their industry, or other adventitious circumstances, are possessed of the goods of this world. So many vile ministerial prints as have propagated this doctrine, aided and assisted by the private representations, or rather misrepresentations, of the clergy, and other tools of government, and of privileged orders, have had a very wonderful and baneful effect on the multitude, and have stamped a dread of reform on the minds of many that I know, whose situations in life would induce one reasonably to suppose it impossible, so completely to impose upon them; however, it always has been the case, that falsehoods, boldly uttered, may prevail for a time, but must be overwhelmed, in the end, by the bright and sacred energies of truth.

"To explain this matter, and many others properly, will require great coolness, moderation, and patience. I have found the following method answer best: 'Do you know such a gentleman?' naming some one of large property and good character in the neighbourhood, who is known to be a friend to a reform; 'Yes.'—'Well, and do you suppose that he would promote a scheme that would occasion and oblige him to part with 'property he possesses, in order for it to be di-

vided amongst strangers whom he never saw or heard of?' 'No.'—'Why then should you suffer yourself to be imposed on by such an idle tale fabricated and calculated for the purpose of raising a dread in you against those more enlightened of your fellow-citizens who wish for a reform, as you would, did you see its necessity; a dread which may cause you to shut your eyes upon oppressive excise and game-laws, exorbitant tithes, an unnecessary standing army, kept on foot at the expense of two millions and a half, for the purposes of influence and corruption; a pension-list, which is a disgrace to the government, and a stigma and reproach on the spirit and prudence of the nation; sinecure places, for the mere possessing of which, hundreds of individuals receive thousands a year each, for doing nothing at all, either for the public service or their own; in short, such an enormous accumulation of taxes, and so prodigal an expenditure of their produce, as no nation on the earth ever heard of or submitted to before. To make you shut your eyes, and continue blind to these enormities, those idle and futile tales are villanously dispersed abroad; but believe them not, consult your own reason, and it will show you that there is a palpable lie on the face of every one of them?' Then explain the nature, aim, and end of your society, invite them to attend it, and to judge for themselves: If they do so, they will soon aid and assist you, by adopting similar ones in their several neighbourhoods, till, in time, they will overspread the whole surface of this sea-girt isle.

"At present, sir, I will not trouble you further on the subject, which I now quit to return to the conduct and regulation of your own society, and all others which may arise hereafter; and as to them, I think the innkeepers in Stockport, Manchester, &c. have given you a hint and lesson, for which you ought to esteem yourselves for ever obliged to them. I own their insolence and audacity in proceeding as they have done, is beyond example, but only deserving of contempt; as such, leave them to themselves; public-houses were never worthy of receiving such guests, whose sacred and important duty require and demand to be performed in mansions more dignified and respectable; your meetings should be at the houses of one another in honourable rotation; and, to prevent inconvenience from too great a number, not more than ten or twelve at the most should compose a primary or district meeting; more members may be admitted in each district, till they reach twenty or twenty-four according to the number fixed on—but then immediately should divide into two district meetings; the several districts should send each one member, by election, to a meeting of delegates, and this meeting of delegates should elect out of their own body a certain number, which is to compose a select of

nittee; this select committee to manage the correspondence, and every other important concern for the whole of the districts in any town or parish, subject always to the revision and approbation of the districts; the delegates and select committee to be chosen only for a limited time, before the expiration of which, others to be elected as before, from the districts, to supply their places, by which rotations every member would in time become qualified to be a delegate and a select committee-man, though he might not be so on his first entrance as a district member. These are only hints on which you may improve or enlarge as much as you please."

*Mr. Attorney General.*—We will now read a draft of an answer to this letter, which was found likewise in the possession of Mr. Adams; it has no date; it has two hand-writings in it; I may, perhaps, trouble your lordships, in the course of this cause, with evidence to prove whose hand-writings they are, but that is not necessary to enable me to read it; I wish to draw your lordships attention particularly to the two last paragraphs.

*Mr. Maclean.*—I found this paper at Mr. Adams's house.

[It was read.]

"Gentlemen;—The Society for Constitutional Information have been favoured with two letters bearing the signature of the editors of the Patriot. The first of these letters, dated June 11th, related particulars concerning the publication called the Patriot, accompanied by some of the first numbers. It required our opinion, and our public approbation of the work, with hints for its continuance. It likewise narrated several interesting particulars, relative to the friends and foes of liberty, their various habits and propensities, and added conjectures on the means by which those habits and propensities might be turned to the advantage of freedom.

"The second letter, dated October 15, consisted of a complaint of neglect on the part of our society, a farther statement of facts similar to those contained in the first letter, and an account including letters of the proceedings of a society at Stockport.

"All these letters have been read by the society for Constitutional Information; and the manly spirit in which they were conceived, their honest zeal, and the love of freedom by which their authors were animated, were highly grateful to that society. It was no feeling of superiority, no intentional disrespect, and assuredly no wilful mark of insult, that occasioned the silence of the society. We were required to perform that of which we were incapable; to pass judgment on a publication which none of us had read, and to correspond with persons in the dark, who had not thought fit (for reasons which they no doubt held to be prudent) to trust us with their names. What could be done? We

admired both the talents and the intention of our correspondents (or correspondent); but we are simple, honest men, wanting the priestly gift of intuition, and could not predicate good or ill of that, of which, not having read, we could have no knowledge. Several weeks passed away, and still the members could give no opinion of the Patriot; for men must individually act by their own judgments; it is the very essence of freedom that they should be left thus to act; they will read the book first that happens most to attract their notice; and you, gentlemen, are too liberal, too just and too manly, to require them to approve what they had not read, however deserving they might suspect it to be of approbation. Of the purport, however, of your undertaking, the ardour with which it is conceived, and the perseverance with which it appears to be pursued, the society finds no hesitation in both approving and applauding most zealously.

"You candidly ask the society for hints; but the detail of your letters convinces us you are yourselves proficient. Honest men, however, advise, asked or not asked, whenever they imagine that by advising they can do good. Perhaps, gentlemen, you may have read and remembered a publication, by the late father of his country, Dr. Franklin, called poor Robin's almanack; in which, with characteristic simplicity of language, he descended to the feelings, wants and understandings of the lower order, and, in proverbial, jocular wisdom, conveyed truths to them of the highest importance, truths that prepared them for the sublime efforts to which they were soon to be roused; truths that led them onward to the avenues of freedom, while their sight was too feeble to endure the splendor of the temple itself. A certain number of such proverbial axioms, which men of your genius would easily invent, arranged at the beginning or end of each of your publications, and appealing to the real wants, grievances, and affections of the people, of which you appear to be perfectly masters, could not fail of producing an effect.

"We rejoice with you in the increase of the members and societies of freedom: our bosoms glow with the same sentiments. We are brothers in affection, with you, with the freemen of Sheffield, of Stockport, and of the whole world.—Freedom, though an infant, makes herculean efforts; and the vipers, aristocracy and monarchy, are panting and writhing under its grasp. May success, peace, and happiness attend those efforts.

"Permit us to add, that the Society for Constitutional Information will gladly receive or communicate intelligences, and for that purpose be happy to correspond either with other societies or with individuals, that make the great and common cause of an equal and real representation of the people in parliament, and the other grand objects of freedom, their end. Information on such subjects,



will, to this society, at all times, be peculiarly acceptable and gratifying."

*John Coates* sworn—Examined by *Mr. Attorney General*.

You are very deaf, I believe; are not you?  
—Yes.

Do you know one Franklow?—Yes.

Were you apprentice to him?—Yes.

Where did he live?—No. 1, China-walk, Lambeth.

How long did you live with him?—I was bound apprentice in November last.

How did your master use to employ himself after his work was over at night?—He used to be out very late at nights.

Was any thing going on up-stairs in your master's house?—Yes.

What?—Exercise.

What sort of exercise?—Exercise with fire arms.

Who came there to exercise with fire-arms?—I did not know them all—I only knew two of them.

What are their names?—Mr. Shelmerdine and Mr. Williams.

Williams the gun-maker, that lives at the Tower?—Yes.

Where did Shelmerdine live?—In Bandy leg-walk.

How often did they exercise there?—About twice a week.

How many of them used to exercise there?—About eight at a time.

Were they always the same eight or different people?—I did not notice them always.

Were there sometimes different people from those who came there at other times?—I suppose they were all the same.

Were the windows of the room in which they exercised open or shut?—Shut.

Were they shut accidentally, or on purpose?—I do not know.

But you are sure they were shut?—Yes.

What do you mean by the windows being shut?—were there window-shutters, or curtains, or what?—Shutters.

At what time of night did they usually exercise?—About eight o'clock.

Do you know whether your master used to go to any other place about exercising?—He used sometimes to go to Worcester-street, in the Borough.

Was it to exercise there?—I do not know.

Did the people that came to exercise at your master's house, live at Lambeth?—I do not know.

Do you remember your master being taken up?—No; I was very ill at home at that time.

You went back again, I believe?—I went back a day or two afterwards.

Did you ever see where those arms were kept that these people exercised with?—Upon the first floor.

After you went back again, w

arms lying about the house, open, or concealed?—I did not see any arms after I went back again.

You do not know where they were put after your master was apprehended?—No.

Do you remember any cartouch-boxes?—Yes.

Where were they put?—In the cutting-room.

In the taylor's room, were you work?

Where my master cuts out.

What part of that room were they put in?

—Lying a-top of the board.

What was done with them afterwards?—

My master bid me take them to Mr. Shelmerdine's in Bandy-leg-walk,

Did your master tell you to do any thing with them?—No.

*John Coates* cross-examined by *Mr. Erskine*.

How did your master dress himself when he went out?—I saw him once with his regimentals on.

Had he a blue coat with a red cape, white waistcoat and breeches, and a cockade in his hat?—Yes.

The cartouch-boxes were lying upon the cutting-out table, openly in the place?—Yes.

And the arms were up in the room?—Yes.

Did the people that exercised, wear the uniform?—I do not know—Mr. Williams had them on.

Your master walked out publicly in the street with his uniform?—I do not know that he walked out with them.

You have seen him with them?—I have seen him with them on.

*John Coates* re-examined by *Mr. Attorney General*.

Did you ever see him out with them?—No.

You told my lord and the Court, that you had seen your master with those regimentals on once—Where was that?—In his own house, one Sunday morning.

Did you ever see him go out with those regimentals?—No.

Did you ever see any body come into the house with those regimentals?—No.

*Mr. Erskine*.—You saw but five or six, I think you say, exercise in the house?—Only eight.

*Mr. James Walsh* sworn.—Examined by *Mr. Law*.

Were you at Chalk-farm on the 14th of April?—Yes.

Do you remember Richter being there?—Yes; I remember his reading some resolutions.

Do you remember any thing being said by him, or any body else, about calling a convention?—I heard the word *Convention*; but that I could not

But did any thing accompany the word convention?—I was not near enough to hear correctly.

Did you hear any thing about corresponding with other societies?—Yes; I heard that they had formed a correspondence with different societies, and that they mentioned the principal towns in England, I think, and some towns in the North, and several different towns; but I was at so great a distance, that it was impossible for me to collect what was said.

Then you did not hear what was stated to be the object of this correspondence?—Not so as to collect any thing.

Did you hear the resolutions moved?—I heard them read.

Did you hear it mentioned what number of those resolutions should be printed?—I think it was mentioned, that one hundred thousand had been printed of the former resolutions, and that not having been sufficient, that two hundred thousand should be printed of these resolutions—that I heard distinctly.

Was any thing else besides the resolutions ordered to be printed—any speech?—I cannot speak to it; but I think they mentioned something of my lord Stanhope's speech; but I would not pretend to swear it.

Do you remember Mr. Thelwall speaking?—I do.

What did he propose?—I was not in a situation to hear distinctly what passed—he was very violent, as usual.

Did you distinctly hear any thing said about arms?—No, not at all.

Mr. Erskine.—Did you go from curiosity?—No; I went on purpose to see what they were about.

Mr. Law.—Do you remember a person stating himself lately to have come from Ireland?—Yes; there was a man who said so—he need not have stated it; for he had the brogue very strongly.

Was the prisoner there?—I cannot swear he was—I was told he was there; but I do not know it.

Thomas Green sworn.—Examined by Mr. Attorney General.

Were you a member of the London Corresponding Society?—Yes.

What are you by trade?—A manufacturer of perfumery.

Have you had occasion to deal in knives lately?—I have dealt in knives ever since I have been in business; in cutlery in general, such as is customary for perfumery shops.

Have you had any knives for the purpose of sale, or for any other purpose, that, when you opened them, are difficult to shut again, on account of a spring?—I have had a knife that has a catch in the back; it is not difficult to shut.

Is it hard to shut without opening the?—No, not hard.

cannot do it without knowing the of doing it?—No.

XXIV.

How many had you of these knives at any one time in your own possession?—Three dozen.

Where did you get them from?—Sheffield.

How many of them did you part with?—Fourteen.

Whom did you part with them to?—I do not know all the persons.

Do you know any of the persons?—Yes; I can name about three or four.

Did you part with them in single knives, one at a time, or sell more at a time?—Single knives, one at a time.

Did you part with any to the prisoner?—One.

You sold him one?—I sold him one.

Did you put more than one into his possession, for any, and what purpose?—They were done up in packages, not more than seven, nor less than six; I gave him one package to make a choice out of; he paid me for one knife, which he meant to keep.

What was he to do with the rest?—I had four back again.

When did you get those back?—I do not recollect exactly the time.

How long was the whole package in the prisoner's possession?—I do not know exactly, it was a very little time; I knew Mr. Hardy, I bought shoes of him; I never booked them, and therefore cannot say exactly; but it was not many weeks.

He had them in his possession some weeks then, had he?—It might be two weeks; but I cannot recollect.

Did you get them back before, or after he was apprehended?—Just after he was apprehended.

Did you ever apply for them back again before he was apprehended?—I did not; I had not been that way; and for that reason I did not call to see whether he had made choice of one, or not.

What difference was there between the different knives in this package?—I do not know a material difference; they run nearly alike; but sometimes there is one that has a more particular handle.

Can you recollect any other persons to whom you sold any?—Yes; I sold one to one Mr. Billington, I think.

Did you sell any to Mr. Pearce?—No.

Did you sell one to Mr. Groves?—I did.

Did you sell any to any other members of the London Corresponding Society?—I do not recollect at present that I did.

Who were the manufacturers that you had them from?—Scofield and Company, at Sheffield.

Did you write for them, or were they sent to you without writing for?—I used to deal with one Cook, a wholesale Sheffield manufacturer, before I dealt with them; they generally had riders in town, who used to go about to shops, to show samples of particular goods: this man called upon me; I gave him an order for the goods; he sent them ac-

cordingly—Here are the bills of parcels for him.

How did you know he had knives of this construction?—He showed me a pattern; and not only of that in particular, but of other articles: I had seen the knives before, in different shops about town.

Where?—In the Strand; they are to be seen at different public shops about town.

Did you apply to the prisoner to sell him one, or did he apply to you to buy one?—He applied to me to buy one.

How did he know you had them?—I do not know that.

Were you at Compton-street after the meeting at Chalk Farm?—I was.

Were you at Chalk Farm meeting?—I was, part of the time.

Do you remember any of those knives being shown there, as bread and cheese knives?—I remember eating my supper, at Compton-street with one; and I remember one or two making remarks upon it.

What were the remarks?—That it was a very useful knife.

Did you see any more there?—I saw another, which I looked upon to be a better knife; that was in the hands of Mr. Pearce; it was a better finished knife.

Did he tell you where he got it?—No, not that I recollect.

Did he say any thing that he could do with it?—Not that I recollect.

*Thomas Green* cross-examined by Mr. *Erskine*.

If this is worth pursuing, I would ask you whether you have one of these knives here?—Yes; I have one in my pocket—Here it is [producing it.]

Mr. *Erskine*.—Is this all?—Yes; I have had one of the kind seven years, and used it

It is a very useful knife; and I will buy one of them the next time I see you---Do you know Mr. Groves?—I do.

Had you ever any conversation with Mr. Groves, about your having sold knives of that description?—He came to me to purchase a knife at my shop, among other things; he purchased several other articles at the same time; he remarked the utility of the knife; he said it was a very useful knife.

Did you tell Groves that you had sold two or three hundred of them?—No.

You swear that?—I did not mention any particular number; I remember he made a remark in this kind of way, whether I had sold a number of these knives, whether it was a saleable article or no?---I said, yes---No man in business would tell a person that it was not a saleable article; they would not purchase it, if he did.

Did you tell him that you had sold two or three hundred, but desire him to speak low, because the parlour-door was open, and your wife was a damn'd aristocrat—did you say so?—I will make oath that I did not make use of such an expression as that.

Lord Chief Justice *Eyre*.---What was the expression you did make use of?—I do not know exactly what, but not such a one as that; no man has ever heard me swear an oath in that kind of way these seven years; I might make use of an expression in this kind of way, when he asked me if it was a saleable article, and if I sold a quantity of them, I might say yes, it is a saleable article, or to that purpose, but I did not say that I had sold any particular number.

Mr. *Erskine*.—Did you say any thing to him as if there was any thing improper in selling the knives?—No.

Did you desire him to speak low lest it should be heard by others, that you were sell-





any of the members, tending that way?—Never in my life.

Had you any idea from any thing you ever heard, that there was an intention in this, or any of these societies, to introduce the anarchy of France into England?—No.

You had not?—No; I had not.

When was this hand-bill brought to you?—I believe in the month of March or April; I am not accurate as to the time; it must be about that time, for I did not become a member of the society till the month of February, I believe.

*Edward Hodson* re-examined by *Mr. Attorney-General*.

You did not know what passed at the Globe-tavern then?—No.

All you know is, what passed between the month of February and the time of the apprehension of Hardy and Adams?—That is all.

Then you chose to protect your own character, hearing of those reports, by remaining no longer in the society? your knowledge is only since the meeting at the Globe-tavern?—Yes.

You were at Chalk-farm?—I was.

Did you ever read the resolutions that passed at Chalk-farm?—I have read them in the report.

You had read them before you saw them in the report?—Yes.

Where?—I had seen them in the printed account of the proceedings at Chalk-farm.

Had you seen the printed account of the proceedings on the 30th of January?—I had not; I do not recollect that I have read them to this hour.

Did you know that they had had any thing to do with Mr. Paine's works, "The Rights of Man?"—I never knew that but by hearsay.

Were you applied to to print the proceedings at Chalk-farm? I do not ask you whether you printed them.—I was applied to.

By whom?—By several of the members, not by an individual member; I was at the division, the committee division, as it was termed, and it being determined to print them, I was applied to.

*Mr. Attorney-General*.—My lords, I am now going to prove, that the circular letter of Mr. Hardy, which your lordships heard read, relative to the calling a convention, was sent to Edinburgh and Strathaven; that it was answered from Strathaven by a letter; I shall also prove the transactions which passed respecting it at Edinburgh, and having proved those circumstances, I shall then state the grounds upon which I apprehend it will be open to me to prove other transactions in Scotland.

*George Ross*\* sworn.—Examined by *Mr. Garrow*.

\* See his examinations, *ante*, Vol. 23, pp. 539, 659, 931, and 1250 and p. 65, of this Volume.

Where is your place of residence?—In Edinburgh.

Were you a member of any society in Edinburgh at any time?—I suppose you mean the Friends of the People.

You were a member of the society, calling itself the Friends of the People?—Yes.

When did you commence a member of that society?—I believe it was some time about the end of the year 1793.

Were you at any time a member of any meeting or society, which was called the British Convention?—Yes, I was.

When did you become a member of that convention?—I do not recollect at what time the convention was held.

Were you deputed to the convention as a delegate from your society?—Yes, I was.

Can you tell us at what time that delegation took place?—I made a mistake at first; it was at the end of the year 1792 that I was made a member, and at the end of 1793 the British Convention was held.

So that you were a delegate from your society?—Yes.

Do you know at what time you were appointed a delegate to the convention?—I think it was at the end of November, or the beginning of December 1793.

Did you attend any of the meetings of the British Convention at Edinburgh?—Several of them.

Were there delegates at the meetings of that convention from other societies in Scotland?—There were.

From any other parts besides Scotland, south?—Yes, there were some from England.

Were you at any time a member of the London Corresponding Society?—No.

Do you remember, at any time, receiving any letter similar to that which I now put into your hand [showing a letter to the witness]?—I did receive some letter similar to this.

Among those which you received, did you receive the identical letter that I have put into your hand? if you look, you will see your own writing on it.—Yes, I think this is the letter that I sent into the country.

What number of letters did you receive with that, which were of a similar tendency?—I think about half a dozen.

Whom did you receive them from?—From one Mr. Stock, in Edinburgh.

Was he a member of any of the societies in Edinburgh?—Yes.

Of which?—One that met in Simmond's-square, Nicholson street, on the south-side of Edinburgh.

What particular name had it?—I do not know what it was called; it was a society exactly of the same nature with that of which I was a member.

Was there in that society to which you and Stock belonged, any committee which was known by any particular name?—There was no committee belonged to that individual society that I particularly belonged to.

Having received five or six of these letters from Stock, what did you do with them?—I sent several of them into the country.

Look at the superscription to that in your hand, and tell me where that was sent to?—It was sent to a person of the name of Miller, at Perth.

Name some other places to which you sent this letter?—I sent one to Strathaven.

Any other?—I think I sent one to Paisley, and to some other towns in the country.

Did you send any to Dundee?—I am not very certain whether I did or not.

You told me you attended several meetings of the British Convention, as it was called; be so good as tell us any of the proceedings of the British Convention, at which you were present; had you any particular cause of knowledge? did you write any of the minutes of the meeting?—I took some of the minutes of the meeting of the convention.

Did you act as secretary of the convention, upon those occasions?—Now and then; sometimes I did.

Without troubling you with the whole of the proceedings which we have had already; do you remember any particular resolution, which was passed with any extraordinary solemnity, at the convention?—I do not recollect particularly; I would know them to be parts of the minutes of the convention that I wrote myself, if I saw them.

If in the minutes of the convention, you should see it in your own hand-writing, you would know it again; but what I am speaking of, is not there; was there any resolution passed with extraordinary solemnity, such as rising up and taking one another by the hand, or any thing of that kind?—I recollect something of that kind having happened, but I do not know what it was.

Lord Chief Justice *Eyre*.—Were you there when it happened?—I am not very certain whether I was or not, but I recollect being questioned upon that very circumstance upon the trials at Edinburgh, but I cannot be positive at present upon the circumstances what it was.

Were you present at any time when any resolution was passed with extraordinary solemnity, such as extending the hand (the mode of swearing I believe in Scotland), or by taking one another by the hand. Do you recollect such a circumstance, with respect to any resolution?—I do not recollect it.

Do you recollect the dispersion of the British Convention, by the magistracy of the country?—I was not present at the first dispersion; I was in custody then.

Do you remember the fact of the dispersion of the convention?—Yes.

After that do you know of forming any committees of ways and means, or any thing of that sort?—After the dispersion of the convention, I did not act in the societies myself, but I understood—

I do not ask you what you understood.—Then I do not know.

Do you know of the formation of any committee of union, which met in your own house?—I cannot swear positively; it became the common talk, but I was not present at one, and was not privy to their proceedings.

Though you were not yourself present at any of their meetings, did you from any of the persons who were members of the British Convention before its dispersion, learn that there had been a committee of union formed; did you learn that after the dispersion of the convention from any of the members of the convention?—I understood there was a committee.

Did you understand that from any of the members of the convention which had been dispersed?—I cannot be certain to that, but I understood there was a committee.

Mr. *Garraw*.—My lords, we will now read this letter which this witness says he received from Stock; we have produced a large bundle of these circular letters to country correspondents, which were found in the possession of the prisoner.

This letter was transmitted by the witness to Miller, at Perth, and he says he sent other copies to different places in the country, particularly to Strathaven; your lordships recollect that an answer to that sent to Strathaven, has been read.

[The printed circular letter read.]

“Citizens;—The critical moment is arrived, and Britons must either assert with zeal and firmness their claims to liberty, or yield without resistance to the chains that ministerial usurpation is forging for them. Will you co-operate with us, in the only peaceable measure that now presents itself with any prospect of success? We need not intimate to you, that notwithstanding the unparalleled audacity of a corrupt and overbearing faction, which at present tramples on the rights and liberties of the people, our meetings cannot in England be interrupted, without the previous adoption of a convention bill—a measure it is our duty to anticipate, that the ties of union may be more firmly drawn, and the sentiments and views of the different societies throughout the nation be compared, while it is yet in our power, so as to guide and direct the future operations of the friends of freedom. Rouse then, to one exertion more! and let us show our consciousness of this important truth, ‘If we are to be beaten down with threats, prosecutions, and illegal sentences, we are unworthy—we are incapable of liberty.’—We must, however, be expeditious. Hessians and Austrians are already among us; and if we tamely submit, a cloud of these armed barbarians may shortly be poured in upon us. Let us form then another British Convention; we have a central situation in our view, which, we believe, would be most convenient for the whole island; but which we forbear to mention (entreating your confidence in this particular) till we have the answer of the societies



with which we are in correspondence. Let us have your answer then by the 30th, at farthest, earlier if possible, whether you approve of the measure; and how many delegates you can send, with the number also, if possible, of your societies. We remain your's, in civic affection, the London Corresponding Society,

T. HARDY, secretary.

"For the management of this business we have appointed a secret committee. You will judge, how far it is necessary for you to do the same."

Addressed on the back

"Mr. Walter Miller, merchant, Perth."

"Show this to your neighbours."

"Answer, post paid, to the care of George Ross, Liberty Court, Edinburgh."

"The gazetteer is to come out immediately."

"Nothing but ready money subscriptions received."

*George Ross* cross-examined by *Mr. Erskine*.

What was the object of your society, the Friends of the People?—To procure a reform in parliament; a reform in the House of Commons.

Did your objects extend farther than to a reform in the House of Commons?—It was only the House of Commons that I associated to reform.

Had your society any design, from what you collected from the members of it, and from what was said and done in your presence, to attack the king's person, or his prerogative, or state?—I never thought so.

Was it your object in that association to do so?—My object was to procure a reform in the House of Commons.

You I think were made a delegate from your society to the British Convention?—Yes.

When you met together, the delegates from the different societies in your convention, did you consider yourselves as the parliament of Great-Britain?—No not at all. We meant to consider the proper means of petitioning parliament.

Was any thing done, or said, by the delegates, sitting in the convention, as if they had assumed to themselves the authority and functions of magistracy?—I could conceive no such thing.

Did they exercise any functions of legislative, or executive power?—No such thing.

Was there any thing said by any members against the king?—Not that I know of; not that I heard.

Did you make any laws to bind the people?—We should have been very foolish if we had proposed such a thing.

What appeared to you to be the object?—To procure a reform in the Commons House of Parliament.

How were you to do it?—By a petition.

Was that said among the members of the convention?—Yes; and several petitions were

sent previous to the meeting of the British Convention.

What number did the British Convention consist of?—About two hundred.

Had you provided yourselves with arms to attack the magistracy and government of the country?—We had not.

Were the delegates prepared to resist the magistracy by force?—Not at all; when the magistrates came to disperse the British Convention the second day, they did not resist them when the sheriff showed his authority; he took the chairman by his hand and took him out of the chair; he said he was doing nothing illegal, and would not leave the chair till the sheriff took him forcibly out.

If you had considered that you were doing that which was illegal and dishonourable for a subject to do, should you have done it?—No; we should have refrained from it.

Should you have done it if you had thought it likely to be dangerous to the king's government or person?—No; I never meant any such thing, I had no such intention.

Do you think there were any other persons in your society who meant any such thing?—I never did; for it was always understood, that our society was to obtain a reform in parliament.

What sort of persons did the convention consist of?—There were people of all ranks belonging to the societies, most of the poor class of people.

Were there any reputable tradesmen belonging to it?—Yes; there were some very reputable gentlemen among them.

People of good character, sober lives, and morals?—Most of them were men of sober lives and morals.

Was there any proposition made in the convention, in your presence, during the time you attended it, that led to assuming any authority of your own?—No; we never thought of any such thing.

*George Ross* re-examined by *Mr. Garrow*.

It would not have occurred to me to ask you, whether you were a traitor, or your associates declared themselves to be so.—Now I will put some questions to you, upon what you have been asked. You have told that gentleman that you had no idea of assuming the powers of legislation by force?—No ideas of that at all.

You meant merely to procure, or obtain, if you could, a reform in the representation of the people?—You are very right.

And that by peaceable means?—Yes.

And that you would have shuddered at an idea of force, or resistance to the civil power of the country; do I take you right?—Yes; very right.

You had no idea of going farther than a fair, peaceable, and orderly application for a redress of that which you conceived to be wrong?—I will answer for myself; I had not.

Were you present when that convention came to this resolution? and then the proper constitutional judges will say, whether you meant it or not:

"That this convention, considering the calamitous consequences of any act of the legislature which may tend to deprive the whole, or any part of the people, of their undoubted right to meet, either by themselves, or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive of our known and acknowledged constitutional liberties, do hereby declare, before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country, and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people, and annual election, until compelled to desist by superior force."—Did you know that the convention, of which you were a member, who sought all those things by peaceful and orderly means, had come to that resolution?—I am not certain whether ever that resolution was passed in the convention.

Upon your oath, were not you present when it was proposed?—I do not recollect that it was proposed.

Will you swear you were not present?—I cannot be certain, because the convention met for several weeks, I believe; and I cannot be certain whether I was present, if that was passed at it, or no.

Can you say you were not present when such a resolution was passed?—I cannot answer positively to the question, on account of the convention meeting for two or three weeks, and I could not get to attend it every day for all the time that the committee met, but I commonly attended two or three hours of every day. I cannot recollect all the different motions that were moved and passed in the convention, whether I was present at them or not.

I will remind you of some others that will strike your memory better perhaps—"And we do resolve, That the first notice given for the introduction of a convention bill, or any bill of a similar tendency to that passed in Ireland, in the last session of their parliament, or any bill for the suspension of the Habeas Corpus act, or the 'Act for preventing 'wrongous imprisonment, and against undue 'delays in trials in North Britain;' or in case of an invasion, or the admission of any foreign troops whatsoever into Great-Britain or Ireland; all, or any of these calamitous circumstances, shall be a signal to the several delegates to repair to such place as the secret committee of this convention shall appoint; and the first seven members shall have power to declare the sittings permanent, and twenty-

one shall constitute a convention, and proceed to business."—Upon your oath, were not you present when that resolution was come to?—I think I was.

Mr. Garrow.—Attend to this—"The convention doth hereby resolve, that each delegate, immediately on his return home, do convene his constituents, and explain to them the necessity of electing a delegate, or delegates, and of establishing a fund, without delay, against any of these emergencies, for his or their expense; and that they do instruct the said delegate or delegates, to hold themselves ready to depart at one hour's warning." Now I fancy I have brought you to recollect this?—I do recollect that from your reading it.

Now attend—No persons were members of this society but persons of moral life and conversation; respectable, orderly, and decent citizens, I think you told that gentleman?—That was not my answer to the question; he asked me if there were not reputable tradesmen belonging to that society?—I said, yes.

So you understood that question to be, whether there were not some reputable tradesmen belonging to that society?—Yes.

Was Watt\* a member of that society?—No.

Was Downie†?—He was.

As you have told that gentleman, upon your cross-examination, that you took the intention to be to proceed by peace and order—

Mr. Gibbs.—I submit to your lordship that that is improper. That sort of interlarding a question is not permitted to us even in cross-examination.

Lord Chief Justice Eyre.—I perfectly agree with you. It is an habitual irregularity; I state that as a common excuse for it all, as a thing to be corrected as much as we can. I did not expect we should get right in a moment; let us keep as much within bounds as we can; it disturbs the argument of the examination entirely, when it is so filled with these observations.

Mr. Garrow.—I am much obliged to your lordship for the kindness with which the admonition comes, and for my part, I will endeavour to submit myself immediately to it.—Were you there when it was resolved, "That the moment of any illegal dispersion of the present convention, shall be considered as a summons to the delegates to repair to the place of meeting appointed for the convention of emergency, by the secret committee; and that the secret committee be instructed to proceed, without delay, to fix the place of meeting?"—I think I was present at that meeting.

Mr. Erskine.—It is stated that the moment

\* See his trial for High Treason, *ant*, Vol. 23, p. 1167.

† See his trial for High Treason, p. 1, of Volume.

any of those things were communicated, they were to be a signal for your holding a convention at such a place?—Yes.

But what were you to do when you got together in this convention?—To petition parliament to get those grievances redressed.

Mr. Garrow.—That gentleman has asked you, what you were to do when you should be got together upon the summons of the delegates. Do you mean to state, upon your oath, that you had the least apprehension that that meeting, in a Convention of Emergency, summoned by a secret committee of emergency, was for the purpose of again petitioning parliament?—I would never have agreed to the motion upon any other terms.

Do you mean to state, upon your oath, that you understood that the resolution which I have read to you, and which I will read again—"That we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country, and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people, and annual election, until compelled to desist by superior force."—Do you mean to swear that you understood that to be to meet in such convention for the purpose of again petitioning parliament?—I had no other idea.

Do you mean to state, that you understood that to be the meaning of such a meeting in a Convention of Emergency?—I understood it to be that some people should be authorized to call a meeting whenever any of those circumstances should take place, and the intention of the meeting would be that of petitioning parliament.

That the delegates were to hold themselves in readiness to depart at an hour's warning, for the purpose of again petitioning that parliament, which they had already petitioned without success?

Mr. Gibbs.—The convention never had petitioned parliament.

Mr. Attorney General.—It has been distinctly proved in evidence, that these Scotch societies had stated that more effectual means should be used.

Mr. Gibbs.—Mr. Garrow states that the object was to petition again that parliament which the convention had before petitioned without effect—Now I am not aware that the convention had petitioned parliament.

Lord Chief Justice Eyre.—It is not a subject to be debated, but it is perfectly clear that just in the manner in which the question was put, the fact was not stated.

Mr. Garrow.—Do you mean to represent to the Court and the Jury, that you understood that the delegates were to hold themselves in readiness to assemble upon an hour's notice, in order to petition parliament upon the dispersion of the convention?—I understood that the delegates, whenever they got

information that a convention was necessary to be held, that they should immediately repair to a place appointed.

Do you mean again to state that you understood the purpose of that second convention, after the dispersion of the first, was to petition parliament?—That is what I mean.

Let me see whether I understand you distinctly, for God forbid I should misunderstand you, or endeavour to misrepresent you—You understood that the convention of emergency, which was to be collected by the committee of emergency upon an hour's notice, was to petition parliament?—I never would have agreed to the meeting of any convention, if they meant to oppose parliament; and I understood that if there was a convention called again, that they certainly would petition parliament for redressing the supposed grievances which existed.

For what purpose, after the dispersion of the existing convention, was a new convention of emergency to be called by a committee of emergency, to petition parliament, as you understood it?—I understood they would petition parliament, that although their petition was rejected, they would still continue, they would not throw aside the notion of a parliamentary reform merely from the rejection of a petition or two.

So that though the first petition should be rejected, and the convention dispersed by force, yet you understood there was to be a committee of emergency to call a new convention of emergency, and so go on again petitioning, though they should have their petitions again rejected?—I understood that the Friends of the People meant to petition parliament till they should gain their end.

Then why did not the society of the Friends of the People go on petitioning parliament, without sending delegates to a British Convention for the purpose of effecting these reforms?—One of the reasons for that was, it was noticed that a petition for parliamentary reform did not specify any particular reform, and that was one of the reasons for a convention as I understood it, to specify the particular reform in their petitions that they wanted, and likewise—

And likewise what?—I do not recollect what I was going to say.

Arthur M'Ewan\* sworn.—Examined by Mr. Garrow.

Where is your place of residence?—At the Water of Leith.

Were you a delegate at the British Convention, which assembled at Edinburgh?—Yes.

Did you attend the meetings of that convention?—Sometimes.

\* See his examination on the trial of Robert Watt, *ant*, Vol. 23, p. 1267, and his examination on the trial of David Downie, p. 61 of this Volume.



Were there any committees for the purpose of managing the business of this convention? I believe there were.

Are you now sworn according to the manner in which you usually take an oath?—No.

[The witness was sworn holding up his right hand, while the oath was repeated, instead of the usual form.]

You were a delegate of the British Convention assembled at Edinburgh?—Yes.

Were there any committees of the convention for the purpose of managing its business?—I believe there were.

Did they from time to time report to the convention itself?—As to that I do not remember.

Do you remember the circumstance of the convention being dispersed by the magistrates?—Yes.

After the convention was dispersed, do you remember any committee being formed out of the societies?—Yes.

What was the name of it?—There was a large committee assembled, as I saw by handbills, that went under the name of the Committee of Union.

Of what persons was that Committee of Union composed?—I cannot inform you as to the names.

Was it composed of members of the convention which had been dispersed?—Some of them were, I believe some were not, at least for aught I know.

Were those who, as far as you know, were not members of the former convention, members of the Society of the Friends of the People at Edinburgh?—I cannot say that, because I was not formerly acquainted with them.

Was there any other committee, called a Committee of Ways and Means?—There was another committee chosen out of the large one, which went under the name of a Sub-committee, and after that it was styled in a printed paper a Committee of Ways and Means; but who made it out in that form I know not.

Of that committee which was called the Committee of Ways and Means, who were the members?—Mr. Stock, Mr. Bourke, Mr. Aitcheson, Mr. Bonthron, Mr. Downie, Mr. Watt, and myself.

Do you remember Watt, as a member of that Committee of Ways and Means, reading any plan for the purpose of effecting some mischief at Edinburgh?—Yes, I do.

You had been a member of the British Convention?—Yes.

What was the plan which was read in the Committee of Ways and Means by Mr. Watt, one of the delegates, and who was a member of that committee?—The purport of what he read from the paper, as I think, ran thus, that it was

Attend to me a single moment—do you know for what purpose, in particular, you were assembled at the time that this plan was

VOL. XXIV.

read—was it for answering any letter?—Do you know for what purpose this sub-committee was chosen?—The reason of choosing this sub-committee, as far as I can understand it, was, to look into the circumstances of Mr. Skirving; for this reason, that a fortnight before there was a letter read that came from him by a man on that large committee, intimating that there was due to him, from the Friends of the People, twenty pounds, and he wished they would make good that payment to support his wife and family when he had left the land; that was what I conceived the committee was appointed for.

In that Committee of Ways and Means, was there any letter which had come to the society, or any of its members, which purported to be a circular letter which you were then met to answer? Look at this letter, was this letter produced in the Committee of Ways and Means?—If it was, it was not in my presence, I never saw it.

At a Committee of Ways and Means, Watt read a plan?—Yes.

State what that plan was which Watt read in the Committee of Ways and Means?—As far as I can recollect, the plan ran in this way—it was mentioned there to seize the lord justice clerk of Scotland, and the rest of the lords of council and session, and the lord provost of Edinburgh; and it also mentioned to kindle a fire at the Excise-office in the New Town, and there were to be parties, according to the way that he read that paper; there were to be parties stationed at the Luckenbooths.

Mr. Erskine.—Mr. Attorney General, I wish to know in what way you make this evidence?

Mr. Attorney General.—It is due from me to state to your lordships how I shape the case. We have now, as your lordships recollect, proved by a letter on the 17th of May, 1793, from Mr. Hardy, by a Mr. Urquhart, who was then going to Edinburgh, that he sent this proposition to the Convention at Edinburgh, to associate not only that society with the London Corresponding Society, but both with every other society throughout the nation—that in answer to that, Mr. Skirving, who appears to be the secretary, in a letter which was found in the possession of the prisoner states—"If either you in England, or we in Scotland, should attempt separately the reform which we seek to obtain, we should, by so doing, only expose our weakness, and manifest our ignorance of the corruption which opposes our important undertaking.—If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set, without affecting the vitals adverse to the system of reform."—It then states in general, that they must have the whole, and not a part—and then he desires that there might be a general union of the people themselves; he says—"haste therefore," (addressing himself to the prisoner) "to associate, at

least to be ready to associate.—If then such a broken state of things should take place, the civil broils that would necessarily ensue, would soon subside before the united, irresistible voice of the whole.—Do not, I entreat you, hesitate, thinking such a work premature as yet, but a month, and then it may be too late.—A malignant party may be already formed, and only waiting for the halting of the present managers; it will then be too late to seek to subject to deliberation, after a party has dared the act of rebellion. If you go no farther than separate meetings in different towns, we will not be able to confide in your confraternity, because, while in such a state, you may be but the tools of a faction.—We could have all confidence, and unite with all affection in one assembly of commissioners from all countries of the world, if we knew they were chosen by the unbiassed voice of the people, because they would come up with the same disinterested views and desires as ourselves, having all agreed to a common centre of union and interest; but we could not confide in fellow-citizens who kept aloof from such union, and would not previously affiliate in one great and indivisible family.”

Upon the 23d of November, 1793, a letter was written to Norwich, by the prisoner, in which he informs the society at Norwich, “of the convention called and now sitting in Edinburgh, for the purpose of obtaining a speedy and radical reform in the system of parliamentary representation, and you are also in possession of the circumstances of our having sent two delegates, Margarot and Gerrald, to represent our increasing society in that respectable assembly. The Society for Constitutional Information has also elected two representatives, Yorke and Sinclair, the latter only of whom has gone to Scotland for the discharge of his important mission.”

Then he states to the Norwich Society, that the object of the present letter was to inform them of the important communications which their mission had produced; that it had diffused spirit and resolution through the different societies in Scotland; that there must be a complete union for the recovery of their rights, and the complete renovation of the liberties and happiness which they are entitled to as men, and expect as Britons;—that an increase of affection, zeal, and confidence—a concert of permanent union—a free communication and comparison of sentiments and intentions, mature deliberation and mutual reliance, are the fruits of the measures adopted by the friends of liberty in Scotland, and seconded by those in London and Ireland.

Then he presses the Society at Norwich to rouse to immediate co-operation with those efforts in Scotland, for the general good—he is desirous to awaken them to a sense of the importance of the object they were to pursue, and to persuade all the societies in England to have an immediate junction with this federation.—And then he desires them to send a

delegate of their own, in order that they may, by a general union, so step forward and avow their sentiments, as to ensure a speedy termination of the war, and a restoration of every right to which Britons and freemen are entitled.

Your lordships will give me leave to put you in mind also, that this society wrote to Sheffield, to Leeds, and I think to one or two other places, to send delegates to the convention in Scotland; they did send delegates to the convention in Scotland; and Skirving, whose name has before occurred, appears to have written circular letters upon the arrival of the delegates of the two English societies, desiring all the societies to come together.

Your lordships likewise recollect, that we have given in evidence, letters that were written by Hardy, and also by Margarot and Gerrald, who were delegates in Scotland; and likewise letters written from those delegates to Hardy, whilst the convention was sitting.

Hardy, in a letter of the 8th of November, 1793, says—“That part of your letter which mentioned your visiting different towns in Scotland, for the purpose of promoting the cause;—they were pleased with the idea, but they thought that it could not be put in practice, on account of the necessary supplies, which come in but slowly.”—Your lordships will also find that there was that solemn resolution made, which has before been mentioned; and from the proceedings of the society, it is clear that they had even laid the plans of future conventions.

Your lordships will also be pleased to recollect that, on the 8th of December, 1793, Margarot, who was then in Scotland, writes to the secretary of the London Corresponding Society, a letter.—There is also a letter of the 22d of December, 1793, in which Margarot writes them, to come to very strong resolutions.—There is another letter of the 24th of December, 1793, of Skirving to Hardy, in which he says—“The time is now arrived, that we must show ourselves worthy of liberty, or deservedly lose it;—the opposition of our adversaries, is demonstration of the propriety and efficacy of the means which we have employed to obtain it.”

Then upon the 20th of January, 1794, your lordship will also recollect, that at the Globe-tavern they came to precisely the same resolution, as that which was come to in the convention in Scotland, before that convention was dispersed.—That upon any motion in the House of Commons, to prevent the people meeting in societies for Constitutional Information, the convention should be called immediately;—and your lordships will also recollect, that that motion was communicated from Scotland (after the magistrates had interfered) by a letter which has been read,—written, I think, by Margarot or Skirving,—in which they state that that resolution was come to, leaving out, “in case of invasion.”—And they state that letters will not safely



communicate all they have to say upon the subject.

After the dispersion of the convention, these societies no longer existed as a convention; but the Friends of the People, and other affiliated societies in Scotland, proceeded to form committees of Ways and Means, and Union:—I have therefore, I submit, clearly laid a foundation to show that up to this period, all those societies were affiliated, that is the London and Scotch Societies; and that it is exceedingly clear, whatever convention was to be called, was to be a convention both of the people of England and Scotland.

This being so we have also laid before your lordships evidence, of which I will say this only, that it is evidence to go to the jury, that the affiliated societies in London, many of the members of them were providing themselves with muskets and pikes; that the Sheffield society, which corresponded as well with Scotland as with London, was also providing pikes:—then I conceive that I am at liberty to prove as a fact in this case, the providing of pikes, and the actual existence of plans of resistance to the government in Scotland at the same time, precisely upon the same principle as if we were now trying what would be a much more manifest overt act, I mean an open rebellion in the country.—I conceive, upon the principle laid down in *lord Lovat's*, and other cases, that there could not be a particle of doubt, that if I had charged an open act of rebellion in England, that I should have been entitled to show that in fact there was in Scotland, another armed force resisting the king's forces there; even though I did not show any communication by letter between them, so as to make it probable that they were co-operating with each other.

I submit to your lordships, that this is evidence to go before the jury, leaving them to judge of the application that it has.

*Mr. Erskine.*—We have been detained here for so many days, and we who are of counsel for the prisoner, having only been dismissed from the court to have that rest which nature requires, without any opportunity of looking at the different papers which constitute the great body of evidence in the cause, —I confess, for one, that I am not so well prepared as I ought to be, nor is it possible for any man to be, to follow the attorney-general in the connexion which he seems to labour upon the different documents which he has read. As far as I understand him, I take it that there is nothing that can or ought to connect the prisoner with the proceedings in Scotland, in which he is sought to be involved.—In the first place, the letter which the attorney-general has read from *Skirving*—

*Mr. Attorney-General.*—In order that I may state the thing entirely to the Court, I beg to put the Court in mind that we have now proved that a circular letter which was to call this convention, has been actually found in Scotland, and that that is a circular

letter, which is written after resolutions which state that they are to have a convention of the people.

*Mr. Erskine.*—I suppose the attorney-general considers it only as evidence of the first branch.

*Mr. Attorney General.*—Yes.

*Mr. Erskine.*—Then we will admit it.

*Mr. Garrow to Mr. Ewan.*—I believe we left off at that part of Watt's plan, that had stated a design of kindling a fire at the Excise-office in the new town?—Yes; that a fire was to be kindled at the Excise-office, and a party of men to be stationed at the Lucken-booths, a party at the head of the Westbooth, and the fire was to draw the military from the garrison.

From the Castle at Edinburgh?—Yes. When they came down past the booth, the men that were stationed upon the head of the booth, according as his plan ran, they were to come in behind them, and the men, stationed at the Luckenbooths, were to take them in the front, and so inclose them between two parties; as far as I could understand the paper read to us, there were different parties, as was mentioned, who were to seize the different banking-houses in Edinburgh, and commissioners were to be appointed for to go and demand the cash from the banks: that is, as far as I recollect, the purport of that paper, which he read at that time.

Of whom were those several parties, which were to be thus stationed, to be composed?—I do not know; I know not a single individual.

What sort of persons, or belonging to what sort of societies or committees were they to be?—What I thought upon by his plan was, that he meant it to be done by the Friends of the People; but at the same time I did not know a single individual that was to engage in such an affair.

*Lord Chief Justice Eyre.*—Did he say who the people were that were to execute this?—He did not.

*Mr. Garrow.*—This plan of Watt's, I understand you, was read at a meeting of the committee?—Yes; but I look upon it to be totally drawn up by himself; I never saw it till that night when he produced it.

How many members of the grand committee might be present when Watt read his first plan?—There were five, I think; a Mr. Stock, myself, Watt, Downie, and Bonthron.

Of how many was the committee of Ways and Means composed?—Of seven altogether.

So that there were five out of those seven present?—Yes.

When Watt read this paper, what passed upon it in the committee?—No farther passed upon it than that I objected to it, as soon as I understood he had done reading; I said I would by no means agree to any thing that was to disturb the peace, or that tended to shed the blood of my countrymen; Mr. Bonthron agreed along with me; he said, by no



means; and, finding we made opposition to that paper, there was no farther comment made upon it.

Do you remember, at any other time, Mr. Watt producing either the same plan with any enlargement, or any new plan or scheme, for any thing to be put in execution at Edinburgh?—I remember his reading a paper—

When?—One of the last times that I was at that committee; the last, or last but one; I am not positive which.

How many persons were present?—I cannot recollect; but it was on a night when the committee used to meet.

The great or sub-committee?—The sub-committee.

What was the plan proposed by Watt at that sub-committee meeting?—It was rather a copy of a proclamation, as I collected it, prohibiting all farmers, dealers in corn, meal, or hay, to remove the same from their respective places of abode, under pain of death.

Lord Chief Justice *Eyre*.—Were you present at that meeting too?—Yes.

Lord Chief Justice *Eyre*.—How soon was that after the first?—I could not recollect; I think I was only five nights at that committee altogether.

Lord Chief Justice *Eyre*.—Was it the next night after, or later?—I rather think it might be two weeks after that.

Mr. *Garrow*.—This proclamation forbids all farmers, dealers in corn, meal, or hay, to remove the same under pain of death?—Yes; and also to all gentlemen residing in the country, not to leave their respective habitations for a greater distance than three miles, under the same penalty; these, as far as I can recollect, were the contents of that paper.

Was there any thing in that address relative to his majesty?—On the other side of the paper there was a copy of an address to his majesty.

For what purpose?—Ordering him to dismiss his present ministers, and to put an end to this bloody war, or he might expect bad consequences; it either ran this way—that he might expect bad consequences, or he might abide by the consequences; I could not understand which.

When was this proclamation, according to Watt's representation, in that committee, to be carried into execution?—The paper mentioned, I think, that this copy of an address was to be sent to his majesty the morning after the attack.

Was the attack that you describe, the drawing the soldiers from the Castle, &c.?—I could look upon it in no other light than that this was to strengthen that plan which he had read in the former committee.

Was it explained by him, in the committee, what was to be done with those soldiers when they should be so surrounded?—No.

Nor with the magistrates?—He did not enter into particulars.

Upon his proposing the second plan, what passed about it?—There was nothing passed upon it, for when he had read that paper, I said, Mr. Watt, these things do not belong to the cause of reform, and I would by no means agree to any such things.

Had you been a member of the British Convention at Edinburgh?—Yes.

Were you present at the passing of any of their solemn resolutions?—No; I was not.

Do you know a person of the name of Orrock?—Yes.

Do you know of any order he received from Watt to form any offensive instruments of any sort?—Yes; Mr. Watt called upon me one day, and wished me to take a walk to Robert Orrock's; when I went there, he told him that he wished him to make some pikes, and, as far as I can recollect, Orrock drew a model, upon the table, or something.

What trade is Orrock?—A smith.

Did he reside in the neighbourhood of Edinburgh?—Yes, within a mile. He sketched it out upon a slate, or upon a board; he said he had four thousand to send to Perth, besides what he had to distribute about Edinburgh; that was all that I remember.

Do you know that, in point of fact, Orrock did make some pikes for Watt, in consequence of that order?—I only knew it since Orrock was in confinement.

Do you know of any having been found in Watt's or Orrock's houses?—I never saw one of them.

You mentioned a person of the name of Stock, who was present at this last meeting at which you and Watt were present?—Yes.

Did Mr. Stock, at that time, mention any place to which he was going?—I remember he did; he said, as far as I can recollect, that he was either going to London, or to Bristol.

Did he mention any person in London in particular upon whom he intended to wait, in order to establish a mode of correspondence with Mr. Watt?—He said by desire of Mr. Watt that he would wait upon Mr. Hardy, Mr. Watt sending a letter along with him to Mr. Hardy.

For what purpose was he to wait upon Mr. Hardy?—As far as I could understand it, Mr. Stock said he would take a letter to Mr. Hardy, and that he would do every thing in his power to establish a correspondence between the two.

What two do you mean, Hardy and Watt?—Yes, as far as I understood him.

Do you remember Stock writing any thing then, as a plan of correspondence between himself and any other person?—I remember he took a sheet of paper, and divided it; he marked upon one side, the aristocrats are doing so and so, on the other, the democrats so and so; that is all I can recollect of it.

What was that paper represented to be for?—Watt wished a correspondence between Hardy and him; he mentioned that he wished to correspond in a safe method; and he



gave him this as a plan how he might correspond in safety; that was the plan he mentioned.

Was any thing said at that meeting of Stock's calling again upon Watt on the subject of his going to London?—Watt said if he would call upon him next day, he should have the letter.

Did you see any thing more of Stock?—I never say any thing more of him after that.

*Arthur McEwan* cross-examined by Mr. *Erskine*.

Whether any letter was ever written to Mr. Hardy you do not know?—No.

Or whether Mr. Hardy ever desired his correspondence you do not know?—I know nothing about it.

Were you a member of the Society of the Friends of the People in Edinburgh?—I was, of a society at the Water of Leith.

What was this sub-committee at which Watt, Downie, and other persons attended?—A sub-committee, which I looked upon to be for the purpose of looking into the finances of Mr. Skirving, for this reason, that Skirving had wrote a letter that there was twenty pounds owing to him.

What was the object of your society?—A parliamentary reform.

What number did your society consist of?—I suppose about twenty.

Were you in the convention?—Yes.

How many of the meetings did you attend in the convention when it sat?—I could not say; I might be half a dozen nights there.

Were you there when it was dispersed? when the magistrates came in?—Yes.

During all the time you attended this convention, did you ever hear, from any of the members, any such talk as Watt indulged himself in at the committee?—Never.

Would you have set your foot into the convention if Watt, or any body else, had been talking of seizing upon the judges, and sending an address to the king?—No.

You would not have done such a thing, would you?—No.

Was there any thing of that sort in the convention?—No.

You never saw any thing of that sort?—No.

From all you ever saw or heard of the members there, what do you believe the convention met to do?—As far as I could understand it, they met to obtain a parliamentary reform.

How did you understand, from the general conversation and debates in the society, that they meant to set about obtaining that?—By a petition.

Do not you recollect it was said, that although parliament might not be disposed, as it had not been disposed to listen to petitions of small bodies of men, when no specific plan of reform was proposed, yet if a vast number of the people of England were to agree upon

a plan, and point it out to the attention of the parliament, very probably it would meet with better success?—I do not remember that.

Were they to have petitioned that night, or how was that to be done?—That very night when the convention was dispersed, it was to have come under consideration, either to petition the House of Commons, or the King, as far as I can recollect.

Lord Chief Justice *Eyre*.—Had there been any notice given of such a motion?—It was given the night before, as far as I heard.

Mr. *Erskine*.—You heard so in the convention?—Yes.

Lord Chief Justice *Eyre*.—Do not you confound that with an Address to the Nation?—I do not recollect that.

Mr. *Erskine*.—Have you seen the books lately?—No.

Or heard them read?—No, I never put pen to paper upon the subject; I never corresponded with any man upon the subject.

Of how many did the convention consist?—I could not say.

But of how many do you suppose they consisted?—Near two hundred I dare say.

Had you ever any arms?—I never saw one.

In any of the debates, that took place among the members of that convention, was it ever proposed that they should arm themselves to overturn the government?—I never heard it.

Was any thing said to that effect in the convention?—I never heard it in the convention.

Was it ever proposed that they should have arms, in order to defend themselves against the magistracy, and to insist upon making laws instead of the parliament?—I never heard of arms in one place or another, till Watt asked me to go that day to Mr. Orrock's.

Did Watt ever say any thing of that sort in the convention when you were there?—I do not know.

Was he a member of the convention?—That I do not know any thing about.

As soon as Watt mentioned this, you say you rejected it with indignation?—Yes, Mr. Bonthron and me rejected it.

What sort of people did your society consist of?—Working people.

In your society was it ever proposed or debated among you to overturn the government?—No.

What sort of a reform was it you wanted?—The reform most of them spoke of was universal suffrage and annual parliaments; some were of that way of thinking, some for triennial parliaments, as settled at the Revolution.

What did you understand by universal suffrage?—The people at large to have the choice of their representatives.

Was it ever debated, or was it ever proposed that the king's person or his throne were to be touched?—I never heard that mentioned.

Were you to petition for any alteration in

the House of Lords, or any thing of that sort?—No, to petition the House of Commons, or the King.

*Arthur McEwan* re-examined by *Mr. Garrow*.

What was the Committee of Union for?—I can give no information as to that.

Upon your oath, was not the Committee of Union after the dispersion of the British Convention, for the purpose of establishing a new convention, a convention of emergency?—Upon my oath I never heard at all,—I never was in it but that night when the letter was read from Skirving. I was never in it but that night I mention.

Oh! then a sub-committee formed out of the Committee of Union?—The first night I was in that committee, which is styled a Committee of Union, that letter was read from Skirving:—the next night again I was appointed a member of this sub-committee, and what was going on in that Committee of Union I know not.

Do you mean to represent that the purpose of the committee of Union, as well as that of Ways and Means, was only relative to Skirving's letter about his own finances.—I ask you was it not for the purpose of establishing a fund for a new convention?—All the transactions I ever saw was in that light.

You can give no account what the Committee of Union was for?—No, I was never in but that night that I was appointed a member of the sub-committee.

You would not have gone into the convention, if you had had an idea of employing any force, or touching the king's majesty, or at all encroaching upon the constitution, or producing in short a reform, but by peaceable means?—No.

Did you know that your convention had resolved:—"That this convention, considering the calamitous consequences of any act of the legislature, which may tend to deprive the whole, or any part of the people of their undoubted right to meet, either by themselves, or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature; and holding the same to be totally inconsistent with the first principles and safety of society; and also subversive of our known and acknowledged constitutional liberties;—do hereby declare, before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country; and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people, and annual election; until compelled to desist by superior force"?—I do not remember any such thing.

Do not you know that with great solemnity the convention had come to that resolution?—No, I do not know that.

Did you not know that the convention had

resolved, that in certain emergencies, they should declare their sittings permanent?—No, I did not know that neither.

Nor that it should be constituted, and proceed to business, as soon as twenty-one should be met?—No.

Did you not know that the convention resolved that the delegates were to hold themselves ready to depart at an hour's warning, and to repair to the place of meeting appointed by the committee of emergency.—Did you?—I have heard of that, but only know of that by hearsay.

You have heard the delegates were to meet at an hour's notice?—I heard it mentioned that they were to have another convention, and that the society were to get information respecting that other meeting.

That they were to be furnished with information?—That they were to get information.

Who was to furnish them with it?—I do not know.

Upon your oath, do not you know it was to be a convention of emergency?—No.

The purpose of this new convention, I take it for granted, was only to petition parliament for a reform?—That was the purpose of the society I belonged to.

And that was to be the purpose of the new convention?—I could not say as to that at all.

This gentleman has got you to say, that you would not have remained for a moment in the convention, if you had had the idea of any force being employed;—upon your oath, how came you to attend a second meeting of the sub-committee, with Watt, who had proposed a plan for drawing down the soldiers from the castle, in order to have them surrounded by the Friends of the People, and for carrying that first plan into execution?—How came you to meet him at a second meeting, when he was enlarging upon that plan?—I did not know that he would repeat it again.

Did you go and inform any magistrate of such a plot?—No, but I informed the sheriff.

Did you inform the sheriff of the first plan, before Watt communicated the second?—No.

Lord Chief Justice *Eyre*.—You are asking this man to go the length of convicting himself of high treason.—The Court ought to take care in the examination of a witness, that he is not called upon to accuse himself.—He is upon very perilous ground. I am not quite sure that you would be permitted to make use of a man's evidence against himself so obtained, or I would not have permitted it to have gone on so long.

*Mr. Garrow*.—It has been examined to on the other side.—

Lord Chief Justice *Eyre*.—It is difficult to say that a question should be asked on one side, which should not be controverted by examination on the other side;—witnesses therefore should understand to what they subject themselves.



*Mr Ewan.*—My Lord, I am not acquainted with these things, and I hope your lordship will protect me.

*William Middleton* sworn—by holding up the hand, Examined by *Mr. Garrow.*

Did you search the house of Watt, who was executed at Edinburgh?—Yes, I searched his house upon the 15th of May last.

Did you find any pikes in his house?—Yes.

*Mr. Erskine.*—This was after Mr. Hardy was taken up.

*Mr. Attorney General.*—It has now been spoken of, that Watt gave orders for pikes—we shall be able to prove by the time at which the orders were given, that it was before Hardy was apprehended.

Lord Chief Justice *Eyre.*—That cannot be admitted.

[The Court was about to adjourn.]

*Mr. Erskine.*—My lords this is the fourth day that my friend Mr. Gibbs and myself, have stood undoubtedly in a very anxious situation;—there has been a most voluminous body of written evidence, all of which has not been printed;—copies of that part which is unprinted, have not as yet reached me:—there have been two days spent in hearing parole evidence; and we being but two assigned as counsel for the prisoner, have been obliged constantly to be engaged in court, in cross-examining the witnesses for the crown;—and your lordships very well know, that the cross-examination of the witnesses, presents a great feature of our case on the part of the prisoner.—A great deal of that has fallen upon me:—your lordships must be sensible it is impossible I could at the time of cross-examining a witness, take any particular note of what he has said.—When the evidence for the crown was near closing, as I thought, I humbly requested of your lordships for the indulgence of an hour or two to look over the papers;—your lordships were pleased to grant my request, which I considered as a personal civility to myself.—I was prevented by extreme sickness, from availing myself of those two hours, for I was extremely ill, and nothing less than a case of this magnitude could have brought me into this court.—Since that time I have not had natural rest, for I have not got home till between two and three o'clock in the morning, and have been here again at nine; so that I can say, with a safe conscience, I have not had an opportunity of casting my eye upon any part of the evidence, though I trust I have something of the general result of it in my mind.—I should hope, under these circumstances, the prisoner may be indulged with some opportunity, for my friend Mr. Gibbs and myself, to arrange our papers, and consider them together as counsel for the prisoner, before we are called upon to make our defence:—and it is necessary to do this, not for my address to the jury only, but it is ne-

cessary when I address the jury, that I present them the prisoner's case, that depends much upon the arrangement of the evidence;—and I feel myself in no condition to do this, either in a manner that is respectful, or fit for the Court, or for the safety of the prisoner.—I do not wish to impose any particular time, but merely to leave it to the indulgence and justice of the Court, perfectly sure when I leave it there, I leave it in a safe place.

Lord Chief Justice *Eyre.*—I feel the weight of your observations, of the difficulty under which you labour, in an extraordinary case, which can hardly be judged of by the common rules on which we proceed in cases of this nature;—the Court are of a disposition to give you all the indulgence they possibly can, because there is a vast mass of evidence; the case arises out of the evidence, and it is fit the case should be thoroughly canvassed.—At the same time, it is certainly notorious that the great bulk of that evidence has been in print a great while, and I cannot believe that it has not been very well considered as far as it has been in print.—I am sure that must be understood.

Now I will tell you very fairly, if the question were only the personal accommodation of yourself and Mr. Gibbs, at the expense of the personal convenience of myself, my lord, and my brothers, I am quite sure we should have no difficulty in the sacrifice of our personal convenience;—but there is a great deal more in the case,—we have a jury who have been thrown into the most arduous service that ever I saw a jury engaged in: they have borne it in a manner that does them infinite honour, and I have no doubt but that as far as it is necessary that they should continue in the situation they are in, that they will bear it cheerfully.—I have seen such a specimen of their behaviour, that I cannot entertain a doubt of that;—but that we could give you an absolute suspension of the business in the situation that we are in, upon the terms of keeping the jury in the situation in which they must be kept, is a thing that it is perfectly impossible for us to think of. Now this occurs to me;—my brothers will consider of it;—I merely throw it out for their consideration.—You are men of honour, you will tell us whether you really do mean to call witnesses, or to take the case upon the ground upon which it is already made:—If you mean to call witnesses, you may call them to-morrow; you may go on with the case as far as it will be necessary for you to go on, to fill up all the time that ought to be filled up, leaving only a part of Sunday, the common interval of rest, without our keeping the jury in a situation to do nothing.—If you do not mean to call witnesses, but mean to leave the case with the observations which arise upon the evidence that is before the Court, we will go as far as we can;—but if witnesses are to be called, and you desire not to address the jury immediately, you must immediately begin to

amine your witnesses, as soon as they have closed on the part of the crown; and fill up the time that will intervene between that time and the time when you will be ready to go on with your address to the jury.—In that way I think we shall put the jury under no unnecessary hardships, because whether they hear the witnesses before or after the speech, is a matter of no importance to them.

Mr. *Erskine*.—I should be afraid to take upon myself the experiment of trying a cause, particularly of this magnitude, in a manner totally different from any that ever occurred in the annals of this country. I should be afraid to begin an experiment of that sort, more especially when counsel in a capital case; because undoubtedly the evidence comes with infinitely more weight, and I mean by weight the proper weight evidence ought to have, the bearing of it upon the case when stated by the counsel, who is to introduce it; and much of the effect of evidence is lost, and much distorted by the cross-examination of counsel, until the true bearing of it is explained. I do not propose that which can be properly termed a suspension of the trial, that could throw that sort of inconvenience upon the jury, which would, I am sure, give me as much pain as any body in the world;—but your lordships will recollect the attorney-general in opening his case (I am sure I think as highly as it is possible of the ability of the attorney-general, and of the manner in which he performed his duty), he found it necessary undoubtedly to spend nine hours in the opening of that case,—the prisoner most unquestionably may expect an equal time, if it were necessary, for his counsel to take the same course in opening his case;—and if I were thrown upon it in the present moment, not having a sufficient recollection of the great points of the evidence, if I were put upon speaking to the jury, I might take that course of reading at great length, great numbers of papers;—whereas, if I had the opportunity of a few hours more, which is the nature of my application, merely to arrange my papers, and to select such as, in the judgment of my learned friend and myself, are sufficient to do this as it ought to be done, it would save time.

Lord Chief Justice *Eyre*.—I dread the explanation of a few hours; Mr. Attorney General, what farther evidence have you to produce?

Mr. *Attorney General*.—I think my evidence will not take up more than forty minutes.

Mr. *Erskine*.—I do not know whether your witness mean to sit on Sunday.

Lord Chief Justice *Eyre*.—I shall sit late to-day; I say nothing of Sunday.

Mr. *Erskine*.—I am literally at this moment, I am sitting here to-day and to-day.

Lord Chief Justice *Eyre*.—I do not think if I were to sit for any length of time, I should be able to do so.

Mr. *Erskine*.—I think I should be able to do so.

that to be the case, and it is a circumstance I am extremely sorry for; on the other hand, I cannot hazard the situation of the jury.

Mr. *Erskine*.—I should be sorry to put the jury to any inconvenience.—I do not shrink from the business; I am extremely willing to suffer any thing, but I assure your lordship that my health is extremely suffering by it.

Lord Chief Justice *Eyre*.—What is it you ask for?

Mr. *Erskine*.—As I stated before, the attorney-general found it necessary to consume nine hours, I shall not consume half that time,—certainly I think I shall not consume half that time, if I had an opportunity of doing that which I humbly request of the court, that is, of arranging the materials in such a manner that I should be able to make those observations which occur to me to be the proper observations to be made, as counsel for the prisoner.

Lord Chief Justice *Eyre*.—We have offered you an expedient; neither of you say to us whether you can accept it.

Mr. *Gibbs*.—With respect to that expedient I have no doubt to say, that it is utterly impossible for Mr. Erskine and myself, in the situation in which we are, respecting ourselves, respecting the Court, and respecting the public, and the jury, it is utterly impossible for us to think of that, because if any thing adverse should happen when we have taken such a line, the imputation will lie upon us.

Lord Chief Justice *Eyre*.—That it may not be in your judgment a desirable thing is very well, but that there is any other objection to it, I cannot agree to. Whether the case is taken upon the summing up of the evidence, or whether it is taken upon the opening of the evidence, is as to all legal purpose the same; I can see no difference: it may make a vast difference in your judgment, as to what is the best manner and the best method of laying your case before the jury; undoubtedly we are assisting the prisoner by putting the counsel in a situation to do his business in the best manner, by proposing it thus; whereas if they were put upon doing it in the ordinary course, they would lie under a peculiar difficulty and disadvantage. Mr. Erskine has not yet told us what he asks.

Mr. *Erskine*.—Since it is put expressly to me, I shall propose, unless the jury profess it a very serious inconvenience to them, instead of coming in the morning at the time we generally come, our coming at twelve o'clock, so that the attorney-general can finish at one. Mr. Gibbs will have the goodness to take a note of the few facts stated by the witnesses; I shall be able by that time to come.

Lord Chief Justice *Eyre*.—Then suppose we adjourn to eleven o'clock.

Mr. *Gibbs*.—We conceive your lordships will permit Mr. Erskine to open the case of Mr. Hardy; then our witnesses will be examined, and then I shall be heard after our witnesses.

Lord Chief Justice *Eyre*.—You will conduct your case in the manner you think best for the interest of your client.

Mr. *Erskine*.—I should be glad if your lordships would allow another hour.

Lord Chief Justice *Eyre*.---I feel so much for the situation of the jury, that on their account I cannot think of it.

Mr. *Erskine*.—My lord, I never was placed in such a situation in the whole course of my practice before, with so many gentlemen on the other side; however, I do not shrink from it.

One of the Jury.---My lord, we are extremely willing to allow Mr. *Erskine* another hour, if your lordship thinks proper.

Lord Chief Justice *Eyre*.—As the jury ask it for you, I will not refuse you.

[It now being half past one o'clock, on Saturday morning, the Court adjourned to twelve o'clock.]

*Session House in the Old Bailey, Saturday, November the 1st. 1794.*

PRESENT,

Lord Chief Justice *Eyre*; Lord Chief Baron *Macdonald*; Mr. Baron *Hotham*; Mr. Justice *Buller*; Mr. Justice *Grose*; and others his Majesty's Justices, &c.

*Thomas Hardy* set to the bar.

Mr. *Attorney General*.—I am now going to call a witness to prove that a paper was found in the possession of Mr. *Thelwall*, and also to prove that another paper of the same sort was found in the possession of Mr. *Martin*, being of the hand-writing of *Martin*. These papers were found after the apprehension of Mr. *Hardy*. When I have proved that the papers were found in the possession of *Martin* and of *Thelwall*, I shall then go on to prove by a witness or two, whom I shall call for that purpose, that they existed in the possession of each of them long before the apprehension of Mr. *Hardy*: they purport upon the face of them to be prepared for the general meeting of the Corresponding Society, upon the 14th of April, 1794, at Chalk Farm.

Mr. *Gibbs*.—Your lordship sees that the evidence offered is that these papers, after the apprehension of Mr. *Hardy*, were found in the possession of Mr. *Martin* and Mr. *Thelwall*, merely that they were in their possession, not that they were ever used by them---it does not appear but that they might have got into their possession again, but simply that they were in their custody as a newspaper is in my hand this morning, and may pass into other hands.

Lord Chief Justice *Eyre*.—The only ground upon which any paper is objected to as evidence, found after the apprehension of the party, is that by possibility the paper might not have existed, or might not have been in the hands of the person till after his apprehension; that is the only ground upon which the evidence is refused; if they remove that ground of objection, it is admissible.

Mr. *Gibbs*.—I understand the rule generally to go to any paper that was in the hands of any one person. I understand that to be the principle.

Lord Chief Justice *Eyre*.---That goes rather to the effect of the evidence, than to the admissibility; it being found in the possession of the parties before the apprehension, removes in fact the objection.

Mr. *Attorney General*.---Mr. *Martin* and Mr. *Thelwall*, in whose custody the papers were found, were persons who, together with Mr. *Hardy*, were appointed to prepare the proceedings for the Chalk Farm meeting.

Lord Chief Justice *Eyre*.---I observed that that goes more to the effect of the evidence, than to its admissibility.

Mr. *Charles Shaw* sworn.---Examined by Mr. *Attorney General*.

Where did you find that paper?---[showing it to the witness]---In Mr. *Thelwall's* house.

When you apprehended him?---After he was taken away; I remained to bring away the papers.

Upon what day?---On the night of the 13th of May, or the morning of the 14th. It was the morning of the 14th.

Mr. *Gibbs*.—This is certainly an informal mode of proceeding; I conceive that these papers cannot possibly attach upon Mr. *Hardy*, as they were found subsequent to his being taken into custody.

*John Nost* sworn.---Examined by Mr. *Attorney General*.

Look at that paper.---[showing it to the witness.]---I found this in Mr. *Martin's* chest in the King's-bench prison.

Mr. *Gibbs*.—When did you find it?---On the 29th of May.

Mr. *William Walker* called again.

Mr. *Attorney General*.---Look at that paper [showing it to the witness] do you know whose hand-writing that is?---I believe it to be Mr. *Martin's* hand-writing.

Have you seen him write?---I have.

[Another paper shown to the witness.]

Whose hand-writing do you believe that to be?---I believe that also to be Mr. *Martin's* hand-writing.

Mr. *Gibbs*.—Did you ever see Mr. *Martin* write?---Yes, frequently.

You did live in the Adelphi, I believe?---I did.

*Evan Evans* sworn.---Examined by Mr. *Attorney General*.

You were confined in the King's-bench prison, I believe, for debt?---Yes.

When did you leave the King's-bench?---I cannot rightly tell.

S K



How long ago?—I suppose six or seven months ago. I left it on the 31st of July.

How long had you been there?—Near two years.

Do you know John Martin?—Perfectly well.

Was he a prisoner there?—He was.

Do you remember, while you were in the King's Bench, ever seeing either of the papers now put into your hand?—I remember perfectly well seeing both the papers.

When was it that you saw them?—I believe about the beginning of April.

Look at the top of this paper, and tell me whether it was before the date there mentioned, or not?—It was before this time.

Lord Chief Justice *Eyre*.—Where did you see them?—In the room where Martin was.

Mr. *Attorney General*.—Had you any conversation with Martin at that time?—I had—he told me he wrote the resolutions for the society at Chalk Farm; he had a copy of them, and read them several times in the room.

Look at the other paper, and tell my lord and the jury whether those are the papers which he read several times in the room, or not?—I really cannot recollect; he often read them to one Pearce, who used to come to see him; he said he wrote the resolutions for Chalk Farm, and that there was plenty of cayenne in them; and if they followed his advice or example, there would be warm work among them before the month of May was out.

Did you know Pearce?—Perfectly well.

Did he use to come there?—He took the resolutions from Martin to Chalk Farm.

Mr. *Gibbs*.—How do you know that?—I saw Martin give the papers to Pearce.

Mr. *Attorney General*.—Was Mrs. Evans, your wife, with you?—Yes, she was.

Was Mr. Tourll present at that time?—He was there when Mr. Martin mentioned about the resolutions, that he had put plenty of pepper in them.

Did they see these papers as well as you?—My wife saw them.

Did they hear the declarations of Martin, as you have stated them, as well as you?—Yes.

*Evans Evans* cross examined by Mr. *Gibbs*.

What are you?—I was formerly a grocer. Were you in the King's-bench prison for debt?—Yes.

For two years I think you say?—Nearly.

Had you any difference with Mr. Martin there?—We had a difference last of all; Mr. Martin wished to have the room I was in to himself.

I do not want to know the reason of your difference—you had a violent quarrel?—No; we had no quarrel, only a dispute.

You never uttered any expressions of resentment or threats against him, did you?—Never.

*Evans Evans* re-examined by Mr. *Attorney-General*.

Was there a man of the name of Gay in the King's bench prison at the time that Martin was there?—There was.

Mr. *Attorney General*.—At the end of Martin's letter he mentions Gay.

*Ann Evans* sworn.—Examined by Mr. *Attorney General*.

You are the wife of the gentleman who gave evidence just now?—Yes.

You attended your husband, I believe, in the King's-bench prison?—Yes; I went backwards and forwards to him.

Do you know Mr. Martin?—Yes; very well.

Did you ever see these papers before, look at them? [showing them to the witness].—Yes; I have seen them both.

Where may you have seen them?—In the King's-bench.

In whose room or possession?—In Mr. Evans's room, in Mr. Martin's possession.

When was it that you saw them there; was it before or after the month stated at the top?—It was in that month.

Did you happen to hear Mr. Martin say any thing respecting these papers; and if he said any thing, what was it that he did say?—I remember his reading this paper, particularly mentioning that it is not lawful to take up arms against the king; he read the paper through, but there is nothing more that I recollect, as I was passing to and fro, but those words.

Did you hear him say any thing else, except what he said about the paper?—Nothing else; there were three gentlemen present, to whom he read it.

Was there any talk about Chalk-farm?—Yes; I heard him mention that he had drawn the resolutions up for Chalk-farm.

Did he say any thing else?—He said if they kept by his resolutions, they were very warm ones, for he had put plenty of Cayenne into them, and that there would be very warm work.

Do you remember a person of the name of Pearce coming there?—Perfectly well; Mr. Martin's clerk.

Had Martin and Pearce any conversation about these papers, or Chalk-farm?—I heard none till he brought the resolutions printed: Pearce said he had had many of them, but that he had distributed them among the workmen of a Coach-maker in Long-Acre, but that Mr. Hardy had a great many more printed, and that he could get more.

Mr. *Gibbs*.—Your lordships see this is not evidence against Mr. Hardy; in fact, it is not the more evidence for Hardy's name being mentioned, than if it was not mentioned.

Lord Chief Justice *Eyre*.—I do not know that it is.

*Ann Evans* cross-examined by *Mr. Gibbs*.

What resolutions were those that *Mr. Martin* spoke of?—For the meeting of the London Corresponding Society at a dancing room in Tottenham Court Road, and that they removed from thence to Chalk-farm.

*Mr. Attorney-General*.—Do you know what street that is in?—No.

*Mr. Gibbs*.—Can you swear that these are the very papers that you saw in *Mr. Martin's* hand?—I can.

Were they ever put into your hand to read?—They were not; but I have had them in my hand frequently.

Since?—No, at that time.

You have frequently read them?—Yes.

You amused yourself with looking into *Mr. Martin's* papers when he was not there?

—And when he was present likewise.

When you speak of the copies that *Pearce* said had been give among the Coach-makers, do you mean to say that they were copies of these papers?—They were the resolutions printed.

But you do not mean that they were copies of those which are now put into court?

*Lord Chief Justice Eyre*.—I did not understand them to be the originals, or copies of the resolutions read at Chalk-farm, but that *Martin* said, at the time they saw these papers, that he had prepared the resolutions for Chalk-farm, and that the paper brought by *Pearce* was a printed copy of those resolutions; unless this shall turn out to be the original of the resolutions, it amounts to nothing.

*Mr. Gibbs*.—I know it is not, but I thought that mistake might arise.

*Thomas Tourll* sworn,---Examined by *Mr. Attorney General*.

I believe you had the misfortune to be in the King's-bench prison about the months of March and April last?—Yes.

Do you know *Mr. John Martin* at all?—I know him by frequently seeing him in *Mr. Evans's* room; I never knew him before he came there.

That is the husband of the lady who was here just now?—Yes.

Did you ever see this paper before? [showing it to the witness].—No.

Did you hear *Martin* say any thing about the Chalk-farm meeting?—I did.

Be so good as state what you heard him say?—One evening, when I called in at *Mr. Evans's* room, *Mr. Martin* came in.

What month was that in?—I believe in April; it was three or four days before the Chalk-farm business.

State what *Mr. Martin* said in your hearing, about the Chalk-farm business?—*Mr. Martin* came in, and the business of Chalk-farm came up; he asked me if I had read any thing of it—I told him I had not; in conversation, he said he had drawn up, and I think he said he

had sent the resolutions; I am certain he said he drew them up, and, he said, if they followed the resolutions, there would be warm work, for he had put in plenty of Cayenne.

Was there a man of the name of *Gay* in prison at that time?—There was.

Were he and *Martin* much together?—Very often.

*Mr. Attorney General*.—I will read presently a resolution of the Constitutional Society, relative to that *Mr. Gay*; his name occurs in that letter, and I think he appears to be proposed as a member to that society by *Mr. Tooke*.

Did you see *Pearce* there?—I have seen him there two or three times.

Perhaps you had not occasion to observe any particular communication between them?—I had not.

*Mr. Attorney General*.—Now I take it there is no objection to reading the paper; therefore I desire it may be read, and I would beg of your lordships and the jury, not only to attend to what is left in the paper, but to what is struck out of it to look at the paper itself.

[The paper read.]

"At a general Meeting of the London Corresponding Society, held at on Monday, the 14th day of April, 1794.

"Citizen ——— in the chair.

"Resolved, That all sovereign, legislative, and judicial powers, are the rights of the people; and though the people have delegated those their original powers to others, in *trust*, for the benefit of the community, yet the rights themselves are reserved by the people, and cannot be absolutely parted with by the people to those persons who are employed to conduct the business of the state.

"Resolved, That the constitution of England is held by the King, Lords, and Commons, and other officers appointed by the people in *trust*, for the benefit of the people; and though these trustees may regulate and improve the constitution, yet they cannot alter or subvert it without committing treason against the nation.

Resolved, That *Magna Charta*, or THE GREAT CHARTER OF THE LIBERTIES OF ENGLAND, made in the reign of king John; THE PETITION OF RIGHTS, assented to by parliament in the reign of king Charles 1st and the several laws made at and in consequence of the *Glorious Revolution* in the year 1688, are declaratory of those parts of the constitution of England, which are in and by them respectively declared.

"Resolved, That the office of KING of England was not instituted by the people merely as an office of profit and honour to the king, but he was so appointed as chief trustee and guardian of the constitution and rights of the people, and that important and laborious personal duties are annexed to the regal office, the objects of which are to

note the good of the people, and preserve their rights in full vigour from innovation and corruption.

Resolved, That it is the duty of the king to preserve the constitution of England and the rights of the people against every encroachment; and in order to enforce that duty, the following oath is required to be taken by every king on his accession to the throne of Great Britain, to wit: the arch-bishop or bishop shall say—'Will you solemnly promise and swear to govern the people of this kingdom of England, and the dominions thereto belonging, according to the statutes in parliament agreed on, and the laws and customs of the same?'

'The king or queen shall say, 'I solemnly promise so to do.' Archbishop or bishop—'Will you to your power cause law and justice in mercy to be executed in all your judgments?' ANS. 'I will.'

'After this, the king or queen, laying his or her hand on the holy Gospels, shall say—'The things which I have before promised I will perform and keep: so help me God' and then shall kiss the book.

'Resolved, That his present majesty, king George 3rd, on his accession to the throne of these realms, did solemnly take the said oath.

'Resolved, That the constitutional rights of the people have been violated, and that it is the duty of the people, in the present alarming crisis, to assemble and inquire into the innovations or infringements which have been made upon the rights of the people, and how far the declarations of the constitution, as they were settled at the aforesaid Revolution, remain in force, and which of them have been violated, and by whom; and also whether such innovations, infringements, and violations, have been committed from the negligence or corruption of those who have been entrusted with the government of the state.

'Resolved, That this society do invite the people to meet in their respective neighbourhoods, to elect one or more person or persons as delegates to meet in a convention, to be held on the day of next, at such place as shall be appointed by the secret committee of this society; and that the delegates so elected do forthwith transmit to the secretary of this society, No. 9, Piccadilly, London, the vouchers of their several elections, in order that the place of meeting may be duly notified to them.

'Resolved, That it is the right and the bounden duty of the people to punish all traitors against the nation, and that the following words are now not a part of the oath of allegiance; to wit, 'I declare that it is not lawful, upon any pretence whatever, to take arms against the king.'

**John Edwards** called again.—Examined by **Mr. Garrow**.

ready examined?—Yes.

Were you a member of the London Corresponding Society?—Yes.

And attended the division meetings?—Yes.

Look at that paper (showing him a paper); were papers of that sort distributed at the division meeting of the society?—I never saw them distributed.

Did you ever see them there; I saw one of them handed round at the division at Snow-hill.

When?—I cannot justly say.

About how long ago?—May be nine months ago now.

Did you see more than one?—I never saw but that one.

**Lord Chief Justice Eyre**.—What number was that division?—The division that met at Scotney's, the Three Tuns, on Snow-hill, I think No. 11.

**Mr. Gibbs**.—Does your lordship think that without producing the paper itself, which was handed round, they can give in evidence a paper similar to it?

**Lord Chief Justice Eyre**.—If he can take upon himself to say that it is the same paper.

[It was read.]

"Countrymen, you are told by those who are in office, that you are in danger of a French invasion.

"You are told by those who are out of office, that you are in danger of a Hessian or Hanoverian invasion.

"In either case arms will be of use to you; agree among yourselves, get arms, and learn the use of them!"

**William Middleton** called again.—Examined by **Mr. Garrow**.

Did you at any time find any pikes in the house of Orrock in Edinburgh?—Yes; upon the evening of the 15th of May last I searched the house of Orrock.

Did you find any pikes there?—Yes—to the amount of thirty-three, finished and unfinished.

Those which you state to be finished, had blades and shafts I suppose?—They were none of them with shafts, there were only the blades.

Did you find any in the possession of any other person?—Upon the same day, in the house of Robert Watt, who was lately executed at Edinburgh, there were twelve found at one search, and four at another.

Were they likewise blades without shafts?—There was one shaft.

**Mr. Gibbs**.—Does your lordship think that this, which was all after the apprehension of the prisoner, is evidence?

**Mr. Attorney General**.—I mentioned last night that I had proved the order to be given for them before the apprehension of the prisoner; the order by Watt and M'Ewan.

**Mr. Gibbs**.—Then that is all that you can prove.



**Mr. Attorney General.**—We have proved that Stock produced to Watt and Roas a printed circular letter, signed Thomas Hardy, which is *verbatim* the same circular letter, a bundle of which was found in the possession of the prisoner; we have already proved that there was a conversation at that time, in which Watt desired that Stock would bring about a communication with Hardy; we certainly have not proved that Stock brought about that communication; but, I submit to your lordships, that if we prove the order for the pikes to have been given previous to that time, that the execution of that order follows naturally, and necessarily upon it.

**Mr. Garrow.**—We submit to your lordships that it is evidence to go to the jury, that the pikes which were found in the possession of Watt, are those pikes which were made in execution of the order given by Watt to Orrock, antecedent to the apprehension of the prisoner.

**Mr. Gibbs.**—It seems to me that upon the principle your lordships have laid down, that nothing which happened after the apprehension of the prisoner can be evidence against him; this evidence ought to be excluded: whether the evidence they have given, previous to the apprehension, answers the purpose they wish, is another thing; but some pikes having been ordered by Orrock, or Watt, before the apprehension of Mr. Hardy, does not make the finding of these pikes, after the apprehension of Hardy, evidence, any more than if no order whatever had been given for them previously: if the former evidence is not complete for the purpose for which they want it, I cannot conceive upon what principle the pikes being found in the possession of this man, after Mr. Hardy's apprehension, is rendered evidence, by a circumstance which happened before it; it would not have been evidence supposing that communication had not taken place.

**Lord Chief Justice Eyre.**—It appears to me that there is a clear, satisfactory ground upon which the evidence must be received, at the same time that you would be at liberty to insist that the execution of the order afterwards does not personally affect the prisoner, but it is a circumstance in evidence to establish the truth of the evidence of the order that the things were found afterwards corresponding with the order.

**Mr. Gibbs.**—Your lordship sees, in arguing this, that I do not mean to admit that the order was Mr. Hardy's, or any thing like it.

**Lord Chief Justice Eyre.**—Nor do I wish to put you to admit any such thing.

**Mr. Garrow to Middleton.**—How many did you find?—In the first search I found twelve blades without handles.

What was it that led you to search Watt's house?—The circumstance that carried me there was, there was a bankrupt had secreted some goods in Watt's house; in searching for those effects I found these blades for pikes.

In what part of the house did you find them?—In the lower part of the house, in his dining room, as his maid called it; a locked-fast closet, or a locked-fast press.

Did you deliver to Mr. Clerke, the sheriff of Edinburgh, those which you found in the house of Orrock, and those which you found in the house of Watt?—They were brought to Sheriff Clerke's office, and lodged there; there was one shaft found along with the four which were found at the second search.

Were the shaft and the blade united, at the time you found them, or apart?—They were not united; but there was a Mr. William Lockhart, sheriff Clerke's depute, attended; we tried one of the blades to the shaft, and they fitted exactly.

The manner in which they are attached is, I understand, by a screw?—Yes.

Mr. Lockhart, you said, was with you?—He was present with me in the man's house.

**John Edwards.**—I shall esteem it a favour if I may be permitted to say a few words to the jury, before I leave the court.

**Lord Chief Justice Eyre.**—To the Jury!—Or to your lordship.

**Lord Chief Justice Eyre.**—Is it to change any thing in the testimony you have given?—Not to change, to explain. When I was examined the night before last, Mr. Garrow was very particular in asking me if I received an address to a person at Sheffield from Mr. Hardy; it is true I received an address, and a meeting was to have taken place in Green-Arbour-court; I wish to let the jury know that that meeting never did take place; no money was put down, and no letter was sent to Sheffield.

**Mr. Attorney General.**—Having mentioned this, I would ask, had you any talk with Hillier about the ale-house in Green-Arbour-court?—On the day that Hardy was taken into custody, Hillier and Gosling were at our house.

When did you first see Hillier's pike?

**Lord Chief Justice Eyre.**—This leads to a cross-examination. A witness desires to explain a circumstance in his evidence; I should be very unwilling to introduce a new examination.

**Mr. Garrow.**—Does not your lordship think it fit to inquire whom he has talked to since he was examined?

**Lord Chief Justice Eyre.**—No; I do not think it necessary; his explanation seems a fair one, to prevent any misinterpretation of his evidence.

**Mr. Attorney General.**—If a witness is to come afterwards, in this way, to explain his evidence, his not stating this in his original examination cuts out a great number of material questions.

**Lord Chief Justice Eyre.**—I perfectly agree with you; this explanation ought to be received with abundant caution by the jury; and from another circumstance, the sort of practice we have got into, of any man's print-

ing such accounts as his industry may collect in court, is certainly a very inconvenient practice, because it may lead to conversations with witnesses, and may induce these explanations. The jury will understand that the explanation is made in that situation of things, and they will form their own judgment upon it. Yet still, I think, it should rest with the explanation that the witness desires to offer.

*Mr. William Lockhart*, sworn.—Examined by *Mr. Garrow*.

You are what they call sheriff Clerke's depute, in the city of Edinburgh?—Yes.

Did you go with Middleton to the house of Orrock?—No; to Watt's house.

Were you present at the finding of any blades for pikes at Watt's house?—Yes.

How many did you find upon the first search?—Twelve.

Where were they?—In a locked up press in his dining-room.

How soon did you renew your search?—One happened between eight and nine o'clock, the other between twelve and one.

How many did you find at the second search?—Two pike-heads.

Blades?—Yes; and two battle-axes, and a pole.

Did you make any trial whether the blades and the pole as you call it, would fit each other?—Yes.

Where is the pole?—It is here. [The witness produced it.]

Where did you deposit the several things that you found at Watt's house?—At Mr. Sheriff Clerke's.

Were they locked up and deposited in his care?—They were in this box. [producing it.]

*James Clerk*, esq., sworn.—Examined by *Mr. Garrow*.

I believe you are sheriff of Edinburgh?—Yes.

Was that box, and the thing the witness calls the pole, deposited in your care as sheriff?—The pikes, he mentions, were deposited in my care; they were in a locked-up place of mine from the time that they were found till the trials at Edinburgh; when they were carried down to be shown at the trials, they were committed to the witness, who was to produce them.

Except then when they were delivered to Lockhart, they have been constantly locked up under your care?—Yes, they have.

To *Mr. Lockhart*.—Did you return these to the sheriff, which you had from him, after the Edinburgh trials?—No; I have kept them in my custody ever since.

And are these the same the sheriff delivered to you?—They are.

To *Mr. Clerke*.—Is Stock still living at Edinburgh, or has he absconded?—We have made every search possible to apprehend him, but without success.

*Mr. Garrow* to *Mr.*

box, and take out some of those blades. [Mr. Lockhart opened the box.]

Is that what you call the battle-axe?—It is. [The witness screwed it on a shaft.]

Have you got any other sort of blades there?—Yes. [The witness produced some pike-blades, shaped like a bayonet, unscrewed the battle-axe, and screwed on a pike in its stead.]

*Mr. Garrow*.—You appeared to me, in taking one of these blades out, to screw off something—what is that?—When that is screwed off, it is rendered fit to attach to the pole; when that is on, it forms a handle; so that it may be used without a pole.

*Mr. Attorney General*.—Martin, in his letter to Margarot, in Scotland, says, Gay will tell you more than I dare mention. I am going to read the account of Gay's being admitted a member of the Constitutional Society; he was proposed by Mr. Tooke, and seconded by Mr. Bonney.

[The entries were read.]

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Friday, 15th March, 1793,

"PRESENT,

"Captain Tooke Harwood in the chair,

"Mr. Balmanno, Mr. Kydd, Mr. Tooke, Mr. Martin, Mr. Fazackerly, count Zenobio, Mr. Sharp, Mr. J. Williams, Mr. Bonney, Mr. Symonds, rev. Mr. Joyce, Mr. Holcroft, Mr. Swainson, Mr. Banks, lord Sempill, Mr. Wills, Mr. Parkinson, Mr. Bailey, Mr. Frost, Mr. G. Williams.

"Mr. Gay, of Duke-street, St. James's, was proposed by Mr. Tooke, and seconded by Mr. Bonney."

"At a meeting of the Society for Constitutional Information, held at the Crown and Anchor-tavern, Strand, Friday, 22d March, 1793,

"PRESENT,

"Mr. Symmonds in the chair,

"Mr. Frost, Mr. Hull, count Zenobio, Mr. Tooke, Mr. Wills, lord Sempill, Mr. Bonney, Mr. Kydd, Mr. Satchell, Mr. J. Martin, Mr. Ausel, Mr. Holcroft, Mr. Balmanno, capt. T. Harwood, Mr. Parkinson, Mr. J. Williams, Dr. Keutish, Mr. Margarot, Mr. Hardy.

"Mr. Gay, Mr. Pellatt, and Mr. Thomas Fossett, were elected members."

Lord Chief Justice Eyre.—Does it appear that the Gay, who was in prison, is the Gay of Duke-street?

*Mr. Attorney General*.—Call Mr. Tourll and Mr. Evans.

*Alexander Grant* called again.

*Mr. Attorney General*.—Do you know and-writing that paper is?—I do not.

*Evans Evans* again called.

*Mr. Attorney General.*—You mentioned a person of the name of Gay, who was in the King's-bench prison?—Ycs.

Do you know where he lived before he went into the King's-bench prison?—I do not. I think I should know if I heard it mentioned, because I have heard it mentioned several times.

Was it Duke-street?—I believe it was near St. James's; he used to be with Martin every day.

*Mr. Attorney General.*—My Lord, I have now finished the evidence on the part of the prosecution.

#### DEFENCE.

The Honourable *Thomas Erskine*.<sup>\*</sup>—Gentlemen of the Jury;—Before I proceed to the performance of the momentous duty which is at length cast upon me, I desire in the first place to return my thanks to the Judges, for the indulgence I have received in the opportunity of addressing you at this later period of the day, than the ordinary sitting of the Court; when I have had the refreshment which nature but too much required, and a few hours retirement, to arrange a little in my mind that immense matter, the result of which I must now endeavour to lay before you.—I have to thank you also, *Gentlemen*, for the very condescending and obliging manner in which you so readily consented to this accommodation:—the Court could only speak for itself, referring me to you, whose rest and comforts had been so long interrupted. I shall always remember your kindness.

Before I advance to the regular consideration of this great cause, either as it regards the evidence or the law, I wish first to put aside all that I find in the speech of my learned friend, the attorney-general, which is either collateral to the merits, or in which I can agree with him.---First then, IN THE NAME OF THE PRISONER, and speaking his sentiments, which are well known to be my own also, I concur in the eulogium which you have heard upon the constitution of our wise forefathers.---But before this eulogium can have any just or useful application, we ought to reflect upon *what it is* which entitles this Constitution to the praise so justly bestowed upon it. To say nothing at present of its most essential excellence, or rather the very soul of it, viz. the share the people ought to have in their government, by a pure representation, for the assertion of which the Prisoner stands arraigned as a traitor before you,—*what is it that*

distinguishes the government of England from the most despotic monarchies? What—but the security which the subject enjoys in a trial and judgment by his equals; rendered doubly secure as being part of a system of law which no expediency can warp, and which no power can abuse with impunity?

To the Attorney General's second preliminary observation, I equally agree.—I anxiously wish with him that you shall bear in memory the anarchy which is desolating France.—Before I sit down, I may perhaps, in my turn, have occasion to reflect a little upon its probable causes; but waiting a season for such reflections, let us first consider *what the evil is* which has been so feelingly lamented, as having fallen on that unhappy country.—It is, that under the dominion of a barbarous state necessity, every protection of law is abrogated and destroyed;—it is, that no man can say, under such a system of alarm and terror, that his life, his liberty, his reputation, or any one human blessing, is secure to him for a moment: it is, that, if accused of federalism, or moderatism, or incivism, or of whatever else the changing fashions and factions of the day shall have lifted up into high treason against the State, he must see his friends, his family, and the light of heaven, no more:—the accusation and the sentence being the same: following one another as the thunder pursues the flash. Such *has been* the state of England,—such is the state of France: and how then, since they are introduced to you for application, ought they in reason and sobriety to be applied? If this prosecution has been commenced (as is asserted) to avert from Great Britain the calamities incident to civil confusion, leading in its issues to the deplorable condition of France; I call upon you, gentlemen, to avert such calamity from falling upon my client, and through his side upon yourselves and upon our country.—Let not him suffer under vague expositions of tyrannical laws, more tyrannically executed.—Let not him be hurried away to pre-doomed execution, from an honest enthusiasm for the public safety.—I ask for him a trial by this applauded constitution of our country:—I call upon you to administer the law to him, according to our own wholesome institutions, by its strict and rigid letter. However you may eventually disapprove of any part of his conduct, or viewing it through a false medium, may think it even wicked, I claim for him, as a subject of England, that the law shall decide upon its criminal denomination:—I protest, in his name, against all appeals to speculations concerning *consequences*, when the law commands us to look only to *intentions*.—If the state be threatened with evils, let parliament administer a *prospective* remedy, but let the prisoner hold his life *UNDER THE LAW*.

Gentlemen, I ask this solemnly of the Court, whose Justice I am persuaded will afford it to me; I ask it more emphatically of you, the jury, who are called upon your oaths

\* I have been indulged by Mr. Rogers, the celebrated author of the Pleasures of Memory and other poems, with Mr. Horne Tooke's copy of Hardy's trial, where I find in Mr. Tooke's hand-writing at the end of this argument, the following remarkable note: "THIS SPEECH WILL LIVE FOR EVER."



to make a true deliverance of your countryman, from this charge—but lastly, and chiefly, I implore it of HIM in whose hands are all the issues of life; whose humane and merciful eye expands itself over all the transactions of mankind; at whose command nations rise, and fall, and are regenerated; without whom not a sparrow falleth to the ground;—I implore it of *God himself*, that He will fill your minds with the spirit of justice and of truth; so that you may be able to find your way through the labyrinth of matter laid before you, a labyrinth in which no man's life was ever before involved, in the annals of British trial, nor indeed in the whole history of human justice or injustice.

Gentlemen, the first thing in order, is to look at the indictment itself; of the *whole* of which, or of some *integral part*, the prisoner must be found guilty, or be wholly discharged from guilt.

The indictment charges that the prisoners did maliciously and traitorously conspire, compass, and imagine, to bring and put our lord the king to death; and that to fulfil, perfect, and bring to effect, their most evil and wicked purpose (*that is to say, of bringing and putting the king to death*), "they met, conspired, consulted, and agreed amongst themselves, and other false traitors unknown, to cause and procure a convention to be assembled within the kingdom, WITH INTENT—" (*I am reading the very words of the indictment, which I entreat you to follow in the notes you have been taking with such honest perseverance*)—"WITH INTENT, AND IN ORDER that the persons so assembled at such convention, should and might traitorously, and in defiance of the authority, and against the will of Parliament, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government of the country, and to depose the king from the royal state, title, power, and government thereof." This is the first and great leading overt act in the indictment; and you observe that it is *not* charged as being treason SUBSTANTIVELY AND IN ITSELF; but only as it is committed in pursuance of the treason against the king's PERSON, antecedently imputed;—for the charge is *not*, that the prisoners conspired to assemble a convention to DEPOSE the king, but that they conspired and compassed his DEATH; and that, in order to accomplish that wicked and detestable purpose, *i. e. in order to fulfil the traitorous intention of the mind against his LIFE*, they conspired to assemble a convention, with a view to depose him. The same observation applies alike to all the other counts or overt acts upon the record, which manifestly indeed lean upon the establishment of the first for their support; because they *charge* a  
of arms, *not as done to excite a*  
convention; *!*

bled: but above all, and which must never be forgotten, because they also uniformly charge these different acts as committed in fulfilment of the same traitorous purpose, TO BRING THE KING TO DEATH. You will therefore have three distinct matters for consideration, upon this trial: First, What share (if any) the prisoner had, in concert with others, in assembling *any* convention or meeting of subjects within this kingdom:—Secondly, What were the acts to be done by this convention, when assembled:—and Thirdly, What was the view, purpose, and intention of those who projected its existence. This third consideration, indeed, comprehends, or rather precedes and swallows up the other two; because, before it can be material to decide upon the views of the convention, as pointed to the subversion of the rule and order of the king's political authority (even if such views could be ascribed to it, and brought home even personally to the prisoner), we shall have to examine whether that criminal conspiracy against the established order of the community, was hatched and engendered by a wicked contemplation to destroy the *natural life and person* of the king, and whether the acts charged and established by the evidence, were done *in pursuance and in fulfilment of the same traitorous purpose*.

Gentlemen, this view of the subject is not only correct, but self evident.—The subversion of the King's political government, and all conspiracies to subvert it, are crimes of great magnitude and enormity, which the law is open to punish; *but neither of them are the crimes before you*.—The prisoner is *not* charged with a conspiracy against the King's POLITICAL GOVERNMENT, but against his NATURAL LIFE. He is not accused of having merely taken steps to depose him from his authority, but with having done *so with the intention to bring him to death*.—It is the act with the *specific intention*, and not the act alone, which constitutes the charge.—The act of conspiring to depose the King, may indeed be evidence, according to circumstances, of an intention to destroy his natural existence, but never, as a proposition of *law*, can constitute the intention itself.—Where an act is done in pursuance of an intention, surely the intention must first exist; a man cannot do a thing in fulfilment of an intention, unless his mind first conceives that intention.—The doing an act, or the pursuit of a system of conduct which leads in probable consequences to the death of the King, may legally (if any such be before you) affect the consideration of the traitorous purpose charged by the record, and I am not afraid of trusting you with the evidence.—How far any given act, or course of acting, independently of intention, ~~may~~ lead probably or inevitably to any *political consequence*, is what we *may* with; those may be curious *in* or politics; but it is *to declare that conse-*

quences unconnected even with intention or consciousness, shall be synonymous in law with the traitorous mind; although the traitorous mind alone is arraigned, as constituting the crime.

Gentlemen, the first question consequently for consideration, and to which I must therefore earnestly implore the attention of the Court, is this:—WHAT IS THE LAW UPON THIS MOMENTOUS SUBJECT?—And recollecting that I am invested with no authority, I shall not presume to offer you any thing of my own;—nothing shall proceed from myself upon this part of the inquiry, but that which is merely introductory, and necessary to the understanding of the authorities on which I mean to rely for the establishment of doctrines, not less essential to the general liberties of England, than to the particular consideration which constitutes our present duty.

First then, I maintain that that branch of the statute 25th of Edward 3rd, which declares it to be high treason "*when a man doth compass or imagine the death of the King, of his lady the Queen, or of his eldest son and heir,*" was intended to guard by a higher sanction than felony, the NATURAL LIVES of the King, Queen, and Prince; and that no act, therefore (either inchoate or consummate), of resistance to, or rebellion against, the King's regal capacity, amounts to high treason of compassing his death, unless where they can be charged upon the indictment, and proved to the satisfaction of the Jury at the trial, as overt acts, committed by the prisoner, in fulfilment of a traitorous intention to destroy the King's NATURAL LIFE.

Secondly, that the compassing the King's death, or, in other words, the traitorous intention to destroy his *natural existence*, is the treason, and not the overt acts, which are only laid as manifestations of the traitorous intention, or, in other words, as EVIDENCE competent to be left to a Jury to prove it; and that no conspiracy to levy war against the King, nor any conspiracy against his *regal character or capacity*, is a good overt act of compassing his death, unless some force be exerted, or in contemplation against THE KING'S PERSON: and that such force so exerted or in contemplation, is not substantively the treason of compassing, but only competent in point of law to establish it, if the Jury, by the verdict of Guilty, draw that conclusion of fact from the evidence of the overt act.

Thirdly, that the charge in the Indictment, of compassing the King's death, is not laid as legal inducement or introduction, to follow as a legal inference from the establishment of the overt act, but is laid as an averment of a FACT; and, as such, the very gist of the Indictment, to be affirmed or negatived by the verdict of Guilty or Not Guilty. It will not (I am persuaded) be suspected by the Attorney-General, or by the Court, that I am about to support these doctrines by opposing my

VOL. XXIV.

own judgment to the authoritative writings of the venerable and excellent lord Hale, whose memory will live in this country, and throughout the enlightened world, as long as the administration of pure justice shall exist: neither do I wish to oppose any thing which is to be found in the other learned authorities principally relied upon by the Crown, because all my positions are perfectly consistent with a right interpretation of them; and because, even were it otherwise, I could not expect successfully to oppose them by any reasonings of my own, which can have no weight, but as they shall be found at once consistent with acknowledged authorities, and with the established principles of the English law.—I can do this with the greater security, because my respectable and learned friend, the Attorney General, has not cited cases which have been the disgrace of this country in former times, nor asked you to sanction by your judgment those bloody murders, which are recorded by them as acts of English justice; but, as might be expected of an honourable man, his expositions of the law (though I think them frequently erroneous) are drawn from the same sources, to which I look up for doctrines so very different.—I find, indeed, throughout the whole range of authorities (*I mean those which the attorney-general has properly considered as deserving that name and character*) very little contradiction; for, as far as I can discover, much more entanglement has arisen from now and then a tripping in the expression, than from any difference of sentiment amongst eminent and virtuous judges, who have either examined, or sat in judgment upon this momentous subject.

Gentlemen, before I pursue the course I have prescribed to myself, I desire most distinctly to be understood, that in my own opinion the most successful argument, that a conspiracy to depose the king does not necessarily establish the treason charged upon this record, is TOTALLY BESIDE ANY POSSIBLE JUDGMENT THAT YOU CAN HAVE TO FORM UPON THE EVIDENCE BEFORE YOU; since throughout the whole volumes that have been read, I can trace nothing that even points to the imagination of such a conspiracy; and consequently the doctrines of Coke, Hale, and Foster, on the subject of high treason, might equally be detailed in any other trial that has ever been proceeded upon in this place. But, Gentlemen, I stand in a fearful and delicate situation.—As a supposed attack upon the king's civil authority has been transmuted, by construction, into a murderous conspiracy against his natural person; in the same manner, and by the same arguments, a conspiracy to overturn that civil authority, by direct force, has again been assimilated, by further construction, to a design to undermine monarchy by changes wrought through public opinion, enlarging gradually into universal will; so that I can admit no false pro-

position, however wide I may think it of rational application.—For as there is a CONSTRUCTIVE COMPASSING, so also there is a CONSTRUCTIVE DEPOSING; and I cannot, therefore, possibly know what either of them is separately, nor how the one may be argued to involve the other.—There are, besides, many prisoners, whose cases are behind, and whose lives may be involved in your present deliberation; their names have been already stigmatized, and their conduct arraigned in the evidence you have heard, as a part of the conspiracy.—It is these considerations which drive me into so large a field of argument, because, by sufficiently ascertaining the law in the outset, they who are yet looking up to it for protection, may not be brought into peril.

Gentlemen, I now proceed to establish, that a compassing of the death of the king, within the twenty-fifth of Edward the third, which is the charge against the prisoner, consists in a traitorous intention against his NATURAL LIFE; and that nothing short of your firm belief of that detestable intention, from overt acts which you find him to have committed, can justify his conviction. That I may keep my word with you in building my argument upon nothing of my own, I hope my friend Mr. Gibbs will have the goodness to call me back, if he finds me wandering from my engagement; that I may proceed step by step upon the most venerable and acknowledged authorities of the law.

In this process I shall begin with lord Hale, who opens this important subject by stating the reason of passing the statute of the twenty-fifth of Edward the third, on which the indictment is founded.—Lord Hale says, in his Pleas of the Crown, vol. i. page 82, that “at common law there was a great latitude used in raising offences to the crime and punishment of treason, by way of interpretation and arbitrary construction, which brought in great uncertainty and confusion. Thus encroaching, i. e. ENCROACHING ON ROYAL POWER was an usual charge of treason anciently, though a very uncertain charge; so that no man could tell what it was, or what defence to make to it.” Lord Hale then goes on to state various instances of vexation and cruelty, and concludes with this striking observation: “by these and the like instances that might be given, it appears how ARBITRARY AND UNCERTAIN the law of treason was before the statute of 25th of Edward the IIIrd, whereby it came to pass that almost every offence that was, or seemed to be, a breach of the faith and allegiance due to the king, was by CONSTRUCTION, CONSEQUENCE, and INTERPRETATION, raised into the offence of high treason.” This is the lamentation of the great Hale upon the state of this country previous to the passing of the statute, which, he says, was passed as a REMEDIAL law, to put an end to them; and lord Coke, considering it in the same light, says, in his third Institute, page 80d, “the parliament which passed this statute

was called (as it well deserved) *parliamentum benedictum*; and the like honour was given to it by the different statutes which from time to time brought back treasons to its standard, all agreeing in magnifying and extolling this blessed Act.”—Now this statute, which has obtained the panegyric of these great men, whom the Chief Justice in his Charge looked up to for light and for example, and whom the Attorney General takes also for his guide, would very little have deserved the high eulogium bestowed upon it, if, though avowedly passed to destroy uncertainty in criminal justice, and to beat down the arbitrary constructions of Judges, lamented by Hale, as disfiguring and dishonouring the law, it had, nevertheless, been so worded as to give birth to new constructions and uncertainties; instead of destroying the old ones.—It would but ill have entitled itself to the denomination of a blessed statute, if it had not, in its enacting letter, which professed to remove doubts, and to ascertain the law, made use of expressions the best known and understood; and it will be found accordingly, that it cautiously did so. It will be found, that, in selecting the expression of COMPASSING THE DEATH, it employed a term of the most fixed and appropriate signification in the language of English law, which not only no judge or counsel, but which no attorney or attorney's clerk, could misunderstand; because in former ages, before the statute, compassing the death of ANY MAN had been a felony, and what had amounted to such compassing, had been settled in a thousand instances. To establish this, and to show also, by no reasoning of mine, that the term “compassing the death” was intended by the statute, when applied to the King, as high treason, to have the same signification as it had obtained in the law when applied to the subject as a felony, I shall refer to Mr. Justice Foster, and even to a passage cited by the Attorney General himself, which speaks so unequivocally and unanswerably for itself, as to mock all commentary.—“The ancient writers,” says Foster, “in treating of felonious homicide, considered the felonious INTENTION manifested by plain facts, in the same light, in point of guilt, as homicide itself.—The rule was, VOLUNTAS REPUTATUR PRO FACTO; and while this rule prevailed, the nature of the offence was expressed by the term COMPASSING THE DEATH. This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the KING, QUEEN, and PRINCE, the statute of treasons has, with great propriety, RETAINED it in its full extent and vigour; and in describing the offence, has likewise RETAINED the ancient mode of expression, when a man doth compass or imagine the death of our lord the king, &c. and thereof be upon sufficient proof, proved, attainted of open deed, by people of his country, the words of the statute must, THEREFORE, be taken in their full and proper sense, and not in a narrow and technical sense, as in indictments of common persons.”



pass and imagine the king's death: and then go on and charge the several acts made use of by the prisoner to effectuate his traitorous purpose; FOR THE COMPASSING THE KING'S DEATH IS THE TREASON, and the overt acts are charged as the means made use of to effectuate the intentions and imaginations of the heart; and therefore, in the case of the regicides, the indictment charged that they did traitorously compass and imagine the death of the king, and the cutting off the head was laid as the overt act, and the person who was supposed to have given the mortal stroke was convicted on the same indictment."

This concluding instance, though at first view it may appear ridiculous, is well selected as an illustration; because, though in that case there could be no possible doubt of the intention, since the act of a deliberate execution involves, in common sense, the intention to destroy life, yet still the anomaly of the offence, which exists wholly in the INTENTION, and not in the overt act, required the preservation of the form of the indictment.—It is surely impossible to read this commentary of Foster, without seeing the true purpose of the statute: the common law had anciently considered, even in the case of a fellow-subject, the malignant intention to destroy, as equivalent to the act itself; but that noble spirit of humanity which pervades the whole system of our jurisprudence, had, before the time of king Edward the third, eat out and destroyed this rule, too rigorous in its general application; but, as Foster truly observes in the passage I have read—"This rule, too rigorous in the case of the subject, the statute of treasons RETAINED in the case of the king, and RETAINED ALSO THE VERY EXPRESSION used by the law when compassing the death of a subject was felony."

The statute, therefore, being expressly made to remove doubts, and accurately to define treason, adopted the ancient expression of the common law, as applicable to felonious homicide, meaning that the life of the sovereign should remain an exception, and that VOLUNTAS PRO FACTO, the wicked intention for the deed itself (as it regarded his sacred life), should continue for the rule: and, therefore, says Foster, the statute meaning to RETAIN the law which was before general, RETAINED also the expression. It appears to me, therefore, incontrovertible, not only by the words of the statute itself, but upon the authority of Foster, which I shall follow up by that of lord Coke and Hale, contradicted by no syllable in their works, as I shall demonstrate, that the statute, as it regarded the security of the king's life, did not mean to enact a new security never known to the common law in other cases, but meant to suffer a common law rule which formerly existed universally, which was precisely known, but which was too severe in common cases, to remain as an exception in favour of the king's security.—I do therefore positively maintain, NOT AS AN

that, within the letter and meaning of the statute, nothing can be a compassing the death of the king that would not, in ancient times, have been a felony in the case of a subject; for otherwise Foster and Coke, as will be seen, are very incorrect when they say the statute RETAINED the old law, and the appropriate word to express it; for if it went BEYOND IT, it would, on the contrary, have been a new rule unknown to the common law, enacted, for the first time, for the preservation of the king's life. Unquestionably the legislature might have made such a rule; but we are not inquiring what it might have enacted, but what it has enacted. But I ought to ask pardon for having relapsed into any argument of my own upon this subject, when the authorities are more express to the purpose than any language I can use: for Mr. Justice Foster himself expressly says, Discourse 1st, of High Treason, p. 207, "all the words descriptive of the offence, viz. 'if a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the same construction they did at common law."—Is this distinct?—I will read it to you again: "all the words descriptive of the offence, viz. 'if a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the same construction they did at common law."

Gentlemen, Mr. Justice Foster is by no means singular in this doctrine.—Lord Coke, the oracle of the law, and the best oracle one can consult, when standing for a prisoner charged with treason, as he was the highest prerogative lawyer that ever existed, maintains the same doctrine—even He, even Coke, the infamous prosecutor of Raleigh,\* whose character with posterity as an attorney general, my worthy and honourable friend would disdain to hold, to be author of all his valuable works; yet even this very lord Coke himself, holds precisely the same language with Foster.—For, in his commentary on this statute, in his third Institute, p. 5, when he comes to the word, "DOTH COMPASS," he says, "Let us see first what the compassing the death of a subject was before the making of this statute, when voluntas reputabatur pro facto."—Now what is the plain English of this?—The commentator says, I am going to instruct you, the student, who are to learn from me the law of England, what is a compassing of the death of the King; but that I cannot do, but by first carrying you to look into what was the compassing of the death of a SUBJECT at the ancient common law; because the statute having made a compassing, as applied to the King, the crime of high treason, which, at common law, was felony in the case of a SUBJECT, it is impossible to define the one, without looking back to the records which illus-

\* See sir Walter Raleigh's case in this Collection, Vol. 2, p. 1.

trate the OTHER.—This is so directly the train of lord Coke's reasoning, that in his own singularly precise style of commenting, he immediately lays before his reader a variety of instances from the ancient records and year-books, of compassing the SUBJECT'S DEATH; and what are they?—Not acts wholly collateral to attacks upon life, dogmatically laid down by the law from speculations upon probable or possible consequences; but assaults WITH INTENT TO MURDER;—conspiracies to waylay the person with the SAME INTENTION; and other MURDEROUS machinations.—These were the only compassings before the statute, against the subject's life; and the extension of the expression was never heard of in the law till introduced by the craft of political judges, when it became applicable to crimes against THE STATE.—Here again I desire to appeal to the highest authorities for this source of constructive treasons; for although the statute of Edward 3rd had expressly directed that nothing should be declared to be treason but cases within its enacting letter, yet lord Hale says, in his Pleas of the Crown, page 83, that "*things were so carried by PARTIES and FACTIONS, in the succeeding reign of Richard 2nd, that this statute was but little observed, but us this or that party got the better.*—So the crime of high treason was in a manner arbitrarily imposed and adjudged, to the disadvantage of the party that was to be judged; which, by various vicissitudes and revolutions, mischiefed all parties first and last, and left a great unsettledness and uneasiness in the minds of the people, and was one of the occasions of the unhappiness of that King.

"All this mischief was produced by the statute of the 21st of Richard 2nd, which enacted, That every man that compasseth or pursueth the death of the King, OR TO DEPOSE HIM, OR TO RENDER UP HIS HOMAGE LIEGE, or he that raiseth people, and rideth against the King, to make war within his realm, and of that he DULY attained and adjudged, shall be adjudged a traitor, of high treason against the crown.

"This," says lord Hale, "was a great snare to the subject, inasmuch that the statute 1st of Henry 4th, which repealed it, recited that no man knew how he ought to behave himself, to do, speak, or say, for doubt of such pains of treason: and therefore, wholly to remove the prejudice, which might come to the king's subjects, the statute 1st of Henry 4th chap. 10, was made WHICH BROUGHT BACK TREASON TO THE STANDARD OF THE 25TH OF EDWARD 3RD."

Now if we look to this statute of Richard 2nd, which produced such mischiefs—what are they?—As far as it re-enacted the treason of compassing the King's death, and levying war, it only re-enacted the statute of Edward 3rd, but it went beyond it by the loose construction of compassing to depose the King, and raising the people, and riding to make war, or a compassing to depose him, TERMS NEW TO THE COMMON LAW. The actual levying of force, to imprison or depose the King, was al-

ready and properly high treason, within the second branch of the statute; but this statute of Richard 2nd enlarged only the crime of compassing, making it extend to a compassing to imprison or depose, which are the great objects of an actual levying of war, and making a compassing to levy war, on a footing with the actual levying it.—It seems, therefore most astonishing, that any judge could be supposed to have decided, as an abstract rule of law, that a compassing to imprison or depose the king was high treason, SUBSTANTIVELY, WITHOUT PREVIOUS COMPASSING OF HIS DEATH: since it was made so by this statute, 21st of Richard 2nd, and reprobated, stigmatized, and repealed by the statute 1st of Henry 4th, chap. 10. "*And so little effect,*" says Mr. Justice Blackstone, "*have over-violent laws to prevent any crime, that within two years after this new law of treason respecting imprisonment and deposing, this very prince was both deposed and murdered.*"

Gentlemen, this distinction, made by the humane statute of Edward 3rd, between treason against the king's natural life, and rebellion against his civil authority, and which the act of Richard 2nd, for a season, broke down, is founded in wise and sound policy.—A successful attack may be made upon the king's person by the malignity of an individual, without the combination of extended conspiracy, or the exertions of rebellious force; the law therefore justly stands upon the watch to crush the first overt manifestation of so evil and detestable a purpose.—Considering the life of the chief magistrate as infinitely important to the public security, it does not wait for the possible consummation of a crime, which requires neither time, combination, nor force to accomplish, but considers the traitorous purpose as a consummated treason: but the wise and humane policy of our forefathers extended the severity of the rule, *voluntas pro facto*, no farther than they were thus impelled and justified by the necessity; and therefore an intention to levy war and rebellion, not consummated, however manifested by the most overt acts of conspiracy, was not declared to be treason, and upon the plainest principle in the world; the king's REGAL capacity, guarded by all the force and authority of the state, could not like his NATURAL existence, be overthrown or endangered in a moment, by the first machinations of the traitorous mind of an individual, or even by the unarmed conspiracy of numbers; and therefore this humane and exalted institution, measuring the sanctions of criminal justice by the standard of civil necessity, thought it sufficient to scourge and dissipate unarmed conspirators by a less vindictive proceeding.

These new treasons were, however at length all happily swept away by the revision of king Henry 4th. The law back to the standard, indeed, in ~~reprobated~~ favoured



the same time, highly encouraging to observe, by what an extraordinary concurrence of circumstances, under the superintendence of a benevolent Providence, the liberties of our country have been established.—Amidst the convulsions, arising from the maddest ambition and injustice, and whilst the state was alternately departing from its poise, on one side, and on the other, the great rights of mankind were still insensibly taking root and flourishing;—though sometimes monarchy threatened to lay them prostrate, though aristocracy occasionally undermined them, and democracy, in her turn, rashly trampled on them, yet they have ever come safely round at last.—This awful and sublime contemplation should teach us to bear with one another when our opinions do not quite coincide; extracting final harmony from the inevitable differences which ever did, and ever must exist amongst men.

Gentlemen, the act of Henry 4th was scarcely made when it shared the same fate with the venerable law which it restored.—Nobody regarded it.—It was borne down by factions, and, in those days, there were no judges, as there are now, to hold firm the balance of justice amidst the storms of state;—men could not then, as the prisoner can to-day, look up for protection to magistrates independent of the crown, and awfully accountable in character to an enlightened world.—As fast as arbitrary constructions were abolished by one statute, unprincipled judges began to build them up again, till they were beat down by another: to recount their strange treasons would be tiresome and disgusting; but their system of construction, in the teeth of positive law, may be well illustrated by two lines from Pope.

“Destroy his fib and sophistry, in vain,  
“The creature’s at his dirty work again.”

This system, both judicial and parliamentary, became indeed so intolerable, in the interval between the reign of Henry 4th, and that of Philip and Mary, that it produced, in the first year of the latter reign, the most remarkable statute that ever passed in England, repealing not only all former statutes upon the subject, except that of Edward 3rd, but also stigmatizing, upon the records of Parliament, the arbitrary constructions of Judges, and limiting them, in all times, to every LETTER of the statute. I will read to you lord Coke’s commentary upon the subject. In his third Institute, page 23, he says,—“Before the act of the 25th of Edward 3rd, so many treasons had been made and declared, and in such sort penned, as not only the ignorant and unlearned people, but also learned and expert men, were trapped and coerced. Thus the great mischief before Edward 3rd, of the uncertainty of what was treason and what not, became so frequent and dangerous, as that the safest and surest remedy was to enact a new act of Mary to abrogate

and repeal all, but only such as are specified and expressed in this statute of Edward 3rd. By which law the safety of both the King and of the subject, and the preservation of the common weal, were wisely and sufficiently provided for, and in such certainty, that nihil relictum est arbitrio judicis.” The whole evil, indeed, to be remedied and avoided by the act of Queen Mary was, the ARBITRIUM JUDICIS, or judicial construction beyond the LETTER of the statute.—The statute itself was perfect, and was restored in its full vigour; and to suppose, therefore, that when an act was expressly made, because judges had built treasons by constructions beyond the law, they were to be left, consistently with their duty, to go on building AGAIN, is to impute a folly to the legislature, which never yet was imputed to the framers of this admirable statute. But this absurd idea is expressly excluded, not merely by the statute, according to its plain interpretation, but according to the direct authority of lord Coke himself, in his commentary upon it. For he goes on to say, “Two things are to be observed; first, that the word EXPRESSED, in the statute of Mary, excludes all IMPLICATIONS OR INFERENCES WHATSOEVER; secondly, that no former attainder, judgment, precedent, resolution, or opinion of judges, or justices, of high treason, other than such as are specified and expressed in the statute of Edward 3rd, are to be followed or drawn into example.—For the words be plain and direct; that from henceforth no act, deed, or offence shall be taken, had, deemed or adjudged to be high treason, but only such as are declared and expressed in the said act of the 25th of Edward 3rd, any act of parliament or statute after 25th of Edward 3rd, or any other declaration or matter, to the contrary notwithstanding.”

Gentlemen, if the letter of the statute of Mary, when coupled with lord Coke’s commentary, required farther illustration, it would amply receive it from the PREAMBLE, which ought to be engraved on the heart of every man who loves the king, or who is called to any share in his councils; for, as lord Coke observes, in the same commentary: it truly recites, that “the state of a king standeth and consisteth more assured by the love and favour of the subjects towards their Sovereign, than in the dread and fears of laws, made with rigorous and extreme punishment; and that laws, justly made for the preservation of the common weal, without extreme punishment or penalty, are more often and for the most part better kept and obeyed, than laws and statutes made with extreme punishment.”

But, Gentlemen, the most important part of lord Coke’s commentary on this statute is yet behind, which I shall presently read to you, and to which I implore your most earnest attention; because I will show you by it, that the unfortunate man, whose innocence I am defending, is arraigned before you of high treason, upon evidence not only



wholly repugnant to this particular statute, but such as never yet was heard of in England upon any capital trial:---EVIDENCE which, even with all the attention you have given to it, I defy any one of you, at this moment, to say of what it consists;---EVIDENCE, which (since it must be called by that name) I tremble for my boldness in presuming to stand up for the life of a man, when I am conscious that I am incapable of understanding from it, even what acts are imputed to him;---EVIDENCE, which has consumed four days in the reading;---not in reading the acts of the prisoner, but the unconnected writings of men, unknown to one another, upon a hundred different subjects;---EVIDENCE, the very listening to which has deprived me of the sleep which nature requires;---which has filled my mind with unremitting distress and agitation, and which, from its discordant unconnected nature, has suffered me to reap no advantage from the indulgence, which I began with thanking you for; but which, on the contrary, has almost set my brain on fire, with the vain endeavour of collecting my thoughts upon a subject never designed for any rational course of thinking.

Let us, therefore, see how the unexampled condition I am placed in falls in with lord Coke upon this subject, whose authority is appealed to by the Crown itself; and let us go home and burn our books if they are to blazon forth the law by eulogium, and accurately to define its protection, which yet the subject is to be totally cut off from, when, even under the sanction of these very authors, he stands upon his trial for his existence. Lord Coke says, in the same commentary, page 12, that the statute had not only accurately defined the CHARGE, but the nature of the PROOF on which alone a man shall be attainted of any of the branches of high treason.---“It is to be observed,” says he, “that the word in the act of Edward 3rd is PROVEABLEMENT: *i. e.* Upon direct and manifest proof, not upon conjectural presumptions, or inferences, or strains of wit, but upon good and sufficient proof. And herein the adverb PROVEABLY hath a great force, and signifieth a DIRECT PLAIN proof, which word the Lords and Commons in Parliament did use, for that the offence of treason was so heinous, and was so heavily and severely punished, as none other the like, and therefore the offender must be PROVEABLY attainted, which words are as forcible as upon direct and manifest proof. Note, the word is not PROBABLY, for then common argumentum might have served, but the word is PROVEABLY be attainted.”

Nothing can be so curiously and tautologously laboured as this commentary, of even that great prerogative lawyer lord Coke, upon this single word in the statute; and it manifestly shows, that, so far from its being the spirit and principle of the law of England, to loosen the construction of this statute, and to adopt rules of construction and proof, unusual

in trials for other crimes, on the contrary, the legislature did not even leave it to the judges to apply the ordinary rules of legal proof to trials under it, but admonished them to do justice in that respect in the very body of the statute.

Lord Hale treads in the same path with lord Coke, and concludes this part of the subject by the following most remarkable passage---vol. i. chap. xi. 86.

“Now although the crime of high treason is the greatest crime against faith, duty, and human society, and brings with it the greatest and most fatal dangers to the government, peace, and happiness of a kingdom, or state; and, therefore, is deservedly branded with the highest ignominy, and subjected to the greatest penalties that the laws can inflict, it appears, first, how necessary it was that there should be some KNOWN, FIXED, SETTLED boundary for this great crime of treason, and of what great importance the statute of 25th of Edward 3rd was, in order to that end. Second, How dangerous it is to depart from the LETTER of that statute, and to multiply and enhance crimes into treason by ambiguous and general words, such as encroaching royal power, subverting fundamental laws, and the like.---And third, how dangerous it is by construction, and ANALOGY, to MAKE treasons where the LETTER of the law has not done it.---For such a method admits of no limits, or bounds, but runs as far and as wide as the wit and invention of accusers, and the detestation of persons accused, will carry men.”

Surely the admonition of this supereminent lawyer ought to sink deep into the heart of every judge, and of every jurymen, who is called to administer justice under this statute; above all, in the times and under the peculiar circumstances which assemble us in this place.---Honourable men, feeling, as they ought, for the safety of government, and the tranquillity of the country, and naturally indignant against those who are supposed to have brought them into peril, ought from that very cause to proceed with more abundant caution, lest they should be surprised by their resentments or their fears; they ought to advance, in the judgments they form, by slow and trembling steps;---they ought even to fall back and look at every thing again, lest a false light should deceive them, admitting no fact but upon the foundation of clear and precise evidence, and deciding upon no intention that does not result with equal clearness from the fact.---This is the universal demand of justice in every case criminal or civil;---how much more especially then in this, when the judgment is every moment in danger of being swept away into the fathomless abyss of a thousand volumes; where there is no anchorage for the understanding; where no reach of thought can look round in order to compare their points; nor any memory be capacious enough to retain even the imperfect relation that can be collected from them?

Gentlemen, my mind is the more deeply

affected with this consideration by a very recent example in that monstrous phenomenon which, under the name of a trial, has driven us out of Westminster-Hall for a large portion of my professional life.\*—No man is less disposed than I am to speak lightly of great state prosecutions, which bind to their duty those who have no other superiors, nor any other control; least of all am I capable of even glancing a censure against those who have led to or conducted the impeachment, because I respect and love many of them, and know them to be amongst the best and wisest men in the nation.—I know them indeed so well as to be persuaded that could they have foreseen the vast field it was to open, and the length of time it was to occupy, they never would have engaged in it; for I defy any man, not enlightened by the divine spirit, to say, with the precision and certainty of an English judge deciding upon evidence before him, that Mr. Hastings is guilty or not guilty:—for who knows what is before him, or what is not?—Many have carried what they knew to their graves, and the living have lived long enough to forget it.—Indeed I pray God that such another proceeding may never exist in England; because I consider it as a dishonour to the constitution, and that it brings, by its example, insecurity into the administration of justice†. Every man in civilized society has a right to hold his life, liberty, property and reputation, under plain laws that can be well understood, and is intitled to have some *limited specific* part of his conduct, compared and examined by their standard; but he ought not for seven years, no, nor for seven days, to stand as a criminal before the highest human tribunal until judgment is bewildered and confounded, to come at last, perhaps, to defend himself, broken down with fatigue, and dispirited with anxiety, which, indeed, is my own condition at this moment, who am only stating the case of another.—What then must be the condition of the unfortunate person whom you are trying?

The next great question is, how the admonitions of these great writers are to be reconciled with what is undoubtedly to be found in other parts of their works; and I think I do not go too far, when I say, that it ought to be the inclination of every person's mind who is considering the meaning of any writer, particularly if he be a person of superior learning and intelligence, to reconcile as much as possible all he says upon any subject, and not to adopt such a construction as necessarily raises up one part in direct opposition to another.

\* See the trial of, John Stockdale *antè* Vol. 22, p. 237.

† "It was the good fortune of Mr. Erskine to remedy, in his own person, the evil thus complained of, when he presided as chancellor on the trial of lord Melville."—*Editor of Erskine's Speeches*—See the trial of Henry Lord Viscount Melville—A. D. 1806, *post*.

The law itself, indeed, adopts this sound rule of judgment in the examination of every matter which is laid before it, for a sound construction; and the judges, therefore are bound by duty as well as reason to adopt it.

It appears to me, then, that the only ambiguity which arises, or can possibly arise, in the examination of the great authorities, and in the comparison of them with themselves, or with one another, is, from not rightly understanding the meaning of the term *overt act* as applied to this species of treason. The moment you get right upon the true meaning and signification of this expression, the curtain is drawn up, and all is light and certainty.

Gentlemen, an overt act of the high treason charged upon this record, I take, with great submission to the Court, to be plainly and simply this:—the high treason charged, is the compassing or imagining (in other words, the intending or designing) the death of the king; I mean his *NATURAL DEATH*; which being a hidden operation of the mind, an overt act is any thing which legally proves the existence of such traitorous design and intention—I say that the design against the king's natural life, is the high treason under the first branch of the statute; and whatever is evidence, which may be legally laid before a jury to judge of the traitorous intention, is a legal overt act; because an overt act is nothing but legal evidence embodied upon the record.

The charge of compassing being a charge of *intention*, which, without a manifestation by *conduct*, no human tribunal could try; the statute requires by its very letter (but without which letter reason must have presumed) that the intention to cut off the sovereign should be manifested by an open act; and as a prisoner charged with an intention, could have no notice how to defend himself without the charge of actions from whence the intention was to be imputed to him, it was always the practice, according to the sound principles of English law, to state upon the face of the indictment the overt act, which the crown charges as the means made use of by the prisoner to effect his traitorous purpose; and as this rule was too frequently departed from, the statute of the seventh of king William enacted, for the benefit of the prisoner, that no evidence should even be given of any overt act not charged in the indictment. The charge, therefore, of the overt acts in the indictment is the notice, enacted by statute to be given to the prisoner for his protection, of the means by which the crown is to submit to the jury the existence of the traitorous purpose, which is the crime alleged against him, and in pursuance of which traitorous purpose the overt acts must also be charged to have been committed.—Whatever, therefore, is relevant or competent evidence to be received in support of the traitorous intention is a legal overt act, and what acts are competent to that purpose, is (as in all other cases) matter of law for the judges; but whether

after the overt acts are received upon the record as competent, and are established by proof upon the trial, they be sufficient or insufficient in the particular instance, to convince the jury of the traitorous compassing or intention, is a mere matter of FACT, which, from its very nature, can be reduced to no other standard than that which each man's own conscience and understanding erects in his mind, as the arbiter of his judgment.—This doctrine is by no means new nor peculiar to high treason, but pervades the whole law, and may be well illustrated in a memorable case lately decided upon writ of error in the House of Lords, and which must be in the memory of all the judges now present, who took a part in its decision.—There the question was, whether, upon the establishment of a number of facts by legal evidence, the defendant had knowledge of a fact, the knowing of which would leave him defenceless.—To draw that question from the jury to the judges, I demurred to the evidence, saying, that though each part of it was legally admitted, it was for the law, by the mouth of the judges, to pronounce whether this fact of knowledge could legally be inferred from it; but the lords, with the assent of all the judges, decided, to my perfect satisfaction, that such a demurrer to the evidence was irregular and invalid; *that the province of the jury over the effect of evidence, ought not to be so transferred to the judges, and converted into matter of law*;—that what was relevant evidence to come before a jury, was the province of the Court,—but that the conclusion to be drawn from admissible evidence, was the unalienable province of the country.

To apply that reasoning to the case before us:—The matter to be inquired of here is, the fact of the prisoner's intention, as in the case I have just cited it was the fact of the defendant's knowledge.—The charge of a conspiracy to depose the king, is therefore laid before you to establish that intention; its competency to be laid before you for that purpose, is not disputed; I am only contending with all reason and authority on my side, that it is to be submitted to your consciences and understandings, whether, even if you believed the overt act, you believe also that it proceeded from a traitorous machination against the life of the king.—I am only contending that these two beliefs must coincide to establish a verdict of guilty.—I am not contending, that, under circumstances, a conspiracy to depose the king, and to annihilate his regal capacity, may not be strong and satisfactory evidence of the intention to destroy his life;—but only that in this, as in every other instance, it is for you to collect or not to collect this treason against the king's life, according to the result of your conscientious belief and judgment, from the acts of the prisoner laid before you; and that the establishment of the overt act, even if it were established, does not establish the trea-

son against the king's life, BY A CONSEQUENCE OF LAW: but on the contrary, the overt act, though punishable in another shape, as an independent crime, is a dead letter upon this record, unless you believe, *exercising your exclusive jurisdiction over the facts laid before you* that it was committed in accomplishment of the treason against THE NATURAL LIFE OF THE KING.

Gentlemen, this particular crime of compassing the king's death, is so complete an anomaly, being wholly seated in unconsummated intention, that the law cannot depart from describing it according to its real essence, even when it is followed by his death:—a man cannot be indicted for killing the king, as was settled in the case of the regicides of Charles 1st, after long consultation among all the judges:—it was held that *the very words of the statute must be pursued*, and that although the king was actually murdered, the prisoners who destroyed him could not be charged with the act itself, as high treason, but with the compassing of his death; the very act of the executioner in beheading him, being only laid as the overt act upon the record.—There, though the overt act was so connected with, as to be even inseparable from the traitorous intention, yet they were not confounded, because of the effect of the precedent in dissimilar cases: and although the regicides came to be tried immediately on the restoration of the king, in the day-spring of his authority, and before high prerogative judges, and under circumstances when, in any country but England, their trial would have been a mockery, or their execution have been awarded without even the forms of trial; yet in England, that sacred liberty, which has for ever adorned the constitution, refused to sacrifice to zeal or enthusiasm, either the substance or the forms of justice. Hear what the chief baron pronounced upon that occasion:—“*These persons are to be proceeded with according to the laws of the land, and I shall speak nothing to you but what are the words of the law. By the statute of Edward 3rd, it is made high treason to compass and imagine the death of the king; in no case else, imagination or compassing, without an actual effect, is punishable by law.*” He then speaks of the sacred life of the king, and speaking of the treason, says:—“*The treason consists in the wicked imagination which is not apparent; but when this poison swells out of the heart, and breaks forth into action, in that case it is high treason.*” THEN WHAT IS AN OVERT ACT OF AN IMAGINATION, OR COMPASSING OF THE KING'S DEATH? TRULY, IT IS ANY THING WHICH SHOWS WHAT THE IMAGINATION OF THE HEART IS.”\*

Indeed, gentlemen, the proposition is so clear, that one gets confounded in the argument from the very simplicity of it; but still I stand in a situation which I am determined at

\* See Vol. 5. p. 988 of this Collection.



all events to fulfil to the utmost; and I shall therefore not leave the matter upon these authorities, but will bring it down to our own times, repeating my challenge to have produced one single authority in contradiction. Lord Coke, in his third Institute, page 11, and 12, says:—"The indictment must charge that the prisoner traitorously compassed and imagined the death and destruction of the king." He says too,—"There must be a compassing or imagination; for an act without compassing, intent, or imagination, is not within the act, as appeareth by the express letter thereof. *Et actus non facit reum nisi mens sit rea.*" Nothing in language can more clearly illustrate my proposition. The indictment, like every other indictment, must charge distinctly and specifically the crime: that charge must therefore be in the very words of the statute which creates the crime; the crime created by the statute not being the perpetration of any act, but being, in the rigorous severity of the law, the very contemplation, intention, and contrivance of a purpose directed to an act: that contemplation, purpose, and contrivance, must be found to exist, without which, says lord Coke, there can be no compassing; and as the intention of the mind cannot be investigated without the investigation of conduct, the overt act is required by the statute, and must be laid in the indictment and proved.—It follows from this deduction, that upon the clear principles of the English law, every act may be laid as an overt act of compassing the king's death, which may be reasonably considered to be relevant and competent to manifest that intention; for, were it otherwise, it would be shutting out from the view of the jury, certain conduct of the prisoner, which might, according to circumstances, lead to manifest the criminal intention of his mind; and as more than one overt act may be laid, and even overt acts of different kinds, though not in themselves substantively treason, the judges appear to be justified in law, when they ruled them to be overt acts of compassing the death of the king; because they are such acts as before the statute of king William, which required that the indictment should charge all overt acts, would have been held to be relevant proof; of which relevancy of proof the judges are to judge as matter of law; and therefore being relevant proof, must also be relevant matter of charge, because nothing can be relevantly charged which may not also be relevantly admitted to proof. These observations explain to the meanest capacity, in what sense lord Coke must be understood, when he says, in the very same page, that, "*A preparation to depose the king, and to take the king by force and strong hand, until he has yielded to certain demands, is a sufficient overt act to prove the compassing of the king's death.*" He does not say as a PROPOSITION OF LAW, that he who prepares to seize the king, compasseth his death, but that a preparation to seize him is a sufficient overt

act to PROVE the compassing; and he directly gives the reason, "because of the strong tendency it has to that end." This latter sentence destroys all ambiguity.—I agree perfectly with lord Coke, and I think every judge would so decide, upon the general principles of law and evidence, without any resort to his authority for it; and for this plain and obvious reason:—The judges who are by law to decide upon the relevancy or competency of the proof, in every matter criminal, and civil, have immemorially sanctioned the indispensable necessity of charging the traitorous intention as the crime, before it was required by the statute of king William.—As the crime is in its nature invisible and inscrutable, until manifested by such conduct as in the eye of reason is indicative of the intention, which constitutes the crime; no overt act is therefore held to be sufficient to give jurisdiction, even to a jury to draw the inference in fact of the traitorous purpose, but such acts from whence it may be reasonably inferred; and therefore as the restraint and imprisonment of a prince has a greater tendency to his destruction than in the case of a private man, such conspiracies are admitted to be laid as overt acts, upon this principle, that if a man does an act from whence either an inevitable or a mainly probable consequence may be expected to follow, much more if he persists deliberately in a course of conduct, leading certainly or probably to any given consequence, it is reasonable to believe that he foresaw such consequence, and by pursuing his purpose with that foreknowledge, the intention to produce the consequence may be fairly imputed.—But then all this is matter of fact for the jury from the evidence, NOT MATTER OF LAW FOR THE COURT; farther than it is the privilege and duty of the judge to direct the attention of the jury to the evidence, and to state the law as it may result from the different views the jury may entertain of the facts; and if such acts could not be laid as overt acts, they could not be offered in evidence; and if they could not be offered in evidence, the mind of the prisoner, which it was the object of the trial to lay open as a clue to his intention, would be shut up and concealed from the jury, whenever the death of the sovereign was sought by circuitous but obvious means, instead of by a direct and murderous machination.—But when they are thus submitted, as matter of charge and evidence to prove the traitorous purpose which is the crime, the security of the king and of the subject is equally provided for: all the matter which has a relevancy to the crime, is chargeable and proveable, not substantively to raise from their establishment a legal inference, but to raise a presumption in fact, capable of being weighed by the jury with all the circumstances of the transaction, as offered by the Crown and the Prisoner; their province being finally to say—not what was the possible or the probable consequence of

the overt act laid in the Indictment, but whether it has brought them to a safe and conscientious judgment of the guilt of the Prisoner; i. e. of his guilt in compassing the death of the king, which is the treason charged in the Indictment. Lord Hale is, if possible, more direct and explicit upon the subject.—He says, page 107, "*The words compass or imagine, are of a great latitude; they refer to the purpose or design of the MIND OR WILL, though the purpose or design takes not effect: but compassing or imagining, singly of itself, is an INTERNAL act, and, without something to MANIFEST it, could not possibly fall under any judicial cognizance but of God alone; and therefore this statute requires such AN OVERT ACT as may render the compassing or imagining capable of a trial and sentence by human judicatures.*" Now can any man possibly derive from such a writing (proceeding too from an author of the character of Lord Hale), that an overt act of compassing, might in his judgment be an act committed inadvertently without the intention? Can any man gather from it, that a man, by falling into bad company, can be drawn in to be guilty of this species of treason by rash conduct, while the love of his Sovereign was glowing in his bosom?—Can there be any particular acts which can entitle a Judge or Counsel to pronounce *as a matter of law*, what another man intends? or that what a man intends is *not* a matter of fact? Is there any man that will meet the matter fairly, and advance and support that naked proposition? At all events, it is certainly not a proposition to be dealt with *publicly*; because the man whose mind is capable even of conceiving it, should be treasured up in a museum, and exhibited there as a curiosity, for money.

Gentlemen, all I am asking, however, from my argument (and I defy any power of reason upon earth to move me from it), is this: that the Prisoner being charged with *intending the King's death*, you are to find whether this charge be founded or unfounded: and that therefore, put upon the record what else you will,—prove what you will,—read these books over and over again,—and let us stand here a year and a day in discoursing concerning them,—still the question must return at last to what you and you ONLY can resolve—*Is he guilty of that base detestable intention to destroy the King?* Nor whether you incline to believe that he is guilty; nor whether you suspect, nor whether it be *probable*; nor whether he may be GUILTY;—no, but that PROVEABLY HE IS GUILTY. If you can say this upon the evidence, it is your duty to say so, and you may, with a tranquil conscience, return to your families; though by your judgment the unhappy object of it must return no more to his.—Alas! Gentlemen, what do I say? he has no family to return to;—the affectionate partner of his life has already fallen a victim to the surprise and horror which attended the scene now transacting.—But let that melan-

choly reflection pass—it should not, perhaps, have been introduced—it certainly ought to have no effect upon you who are to judge upon your oaths.—I do not stand here to desire you to commit perjury from compassion;—but at the same time my earnestness may be forgiven, since it proceeds from a weakness common to us all. I claim no merit with the Prisoner for my zeal;—it proceeds from a selfish principle inherent in the human heart.—I am Counsel, Gentlemen, for myself. In every word I utter, I feel that I am pleading for the safety of my own life, for the lives of my children after me, for the happiness of my country, and for the universal condition of civil society throughout the world.

But let us return to the subject, and pursue the doctrine of lord Hale upon the true interpretation of the term overt act, as applicable to this branch of treason. Lord Hale says, and I do beseech most earnestly the attention of the Court and Jury to this passage—"If men conspire the death of the king, and thereupon provide weapons, or send letters, this is an overt act within the statute." Take this to pieces, and what does it amount to?—"If men conspire the death of the king," *that* is the first thing, viz. the *intention*, "and thereupon," that is, in pursuance of *that wicked intention* "provide weapons, or send letters for the execution thereof," i. e. for the execution of that destruction of the King, which they have meditated, "this is an overt act within the statute." Surely the meaning of all this is self evident.—If the intention be against the king's life, though the conspiracy does not immediately and directly point to his death, yet still the overt act will be sufficient if it be something which has so direct a tendency to that end, as to be competent rational evidence of the intention to obtain it. But the instances given by Lord Hale himself furnish the best illustration—"If men conspire to imprison the King by force and a strong hand, until he has yielded to certain demands, and for that purpose gather company or write letters, *that is an overt act to prove the compassing the King's death, as it was held in lord Cobham's case by all the Judges.*" In this sentence lord Hale does not depart from that precision which so eminently distinguishes all his writings; he does not say that if men conspire to imprison the king until he yields to certain demands, and for that purpose to do so and so, *This is high Treason*—no, nor even an overt act of high treason, though he might in legal language correctly have said so; but to prevent the possibility of confounding the treason with matter which may be legally charged as relevant to the proof of it, he follows lord Coke's expression in the third Institute, and says, *This is an overt act to prove the compassing of the king's death*: and as if by this mode of expression he had not done enough to keep the ideas asunder, and from abundant regard for the rights and liberties of the subject, he

immediately adds, "*But then there must be an overt act to prove that conspiracy; and then that overt act to prove such design, is an overt act to prove the compassing of the death of the king.*" The language of this sentence labours in the ear from the excessive caution of the writer;—afraid that his reader should jump too fast to his conclusion upon a subject of such awful moment, he pulls him back, after he has read that a conspiracy to imprison the king, is an overt act to prove the compassing of his death, and says to him, but recollect that there must be an overt act to prove, in the first place, *that conspiracy to imprison the king*, and even then *that intention to imprison him is manifested by the overt act*, is but in its turn an overt act to prove the compassing or intention to destroy the king.—Nor does the great and benevolent Hale rest even here, but after this almost tedious perspicuity, he begins the next sentence with this fresh caution and limitation, "*But then this must be intended of a conspiracy forcibly to detain and imprison the king.*" What then is a conspiracy forcibly to imprison the king?—surely it can require no explanation: it can only be a direct machination to seize and detain his person by rebellious force.—Will this expression be satisfied by a conspiracy to seize *speculatively* upon his authority by the publication of pamphlets, which, by the inculcation of republican principles, may in the eventual circulation of a course of years, perhaps in a course of centuries, in this king's time, or in the time of a remote successor, debase men's minds from the English constitution, and, by the destruction of monarchy, involve the life of the monarch?—Will any man say that this is what the law means by a conspiracy against the king's government, supposing even that a conspiracy against his government were synonymous with a design upon his life? Can any case be produced where a person has been found guilty of high treason under this branch of the statute, where no war has been actually levied, unless where the conspiracy has been a forcible invasion of the king's personal liberty or security? I do not mean to say that a conspiracy to levy war may not, in many instances, be laid as an overt act of compassing the king's death, because the war may be mediately or immediately pointed distinctly to his destruction or captivity; and as lord Hale truly says, "small is the distance between the prisons and graves of Princes."—But multiply the instances as you will, still the principle presents itself.—The truth of this very maxim, built upon experience, renders an overt act of this description rational and competent evidence to be left to a jury of a design against the king's life; but it does not, therefore, change the nature of the crime, nor warrant any court to declare the overt act to be legally and conclusively indicative of the traitorous intention; because, if this be once admitted to be law, and the jury are bound to read the treason upon their belief of the ex-

istence of the overt act, the trial by the country is at an end, and the judges are armed with an arbitrary uncontrollable dominion over the lives and liberties of the nation.

Gentlemen, I will now proceed to show you that the doctrines which I am insisting on have been held by all the great judges of this country, in even the worst of times, and that they are, besides, not at all peculiar to the case of high treason, but pervade the whole system of the criminal law. Mr. Justice Foster, so justly celebrated for his writings, lays down the rule thus:—It may be laid down as a general rule, that "*indictments founded UPON PENAL STATUTES, ESPECIALLY THE MOST PENAL, must pursue the statute so as to bring the party within it.*"—And this general rule is so expressly allowed to have place in high treason, that it is admitted on all hands, that an indictment would be radically and incurably bad, unless it charged the compassing of the king's death, as the leading and fundamental averment, and unless it formally charged the overt act to be committed in order to effectuate the traitorous purpose. Nobody ever denied this proposition; and the present indictment is framed accordingly. Now it is needless to say that if the benignity of the general law requires this precision in the indictment, the proof must be correspondingly precise, for otherwise the subject would derive no benefit from the strictness of the indictment; the strictness of which can have no other meaning in law or common sense, than the protection of the prisoner; for if, though the indictment must directly charge a breach of the very LETTER of the statute, the prisoner could, nevertheless, be convicted by evidence not amounting to a breach of the LETTER, then the strictness of the indictment would not only be no protection to the prisoner, but a direct violation of the first principles of justice criminal and civil, which call universally for the proof of all material averments in every legal proceeding.—But Mr. Justice Foster expressly adverts to the necessary severity of proof, as well as of charge—for he says, that "although a case is brought within the *reason* of a penal statute, and within the *mischief* to be prevented, yet, if it does not come within the unequivocal *letter*, the benignity of the law interposeth." If the law then be thus severe in the interpretation of every penal proceeding, even down to an action for the killing of a hare or a partridge, are its constructions only to be enlarged and extended as to the statute of high treason, although the single object of passing it was to guard against constructions?

Gentlemen, the reason of the thing is so palpably and invincibly in favour of this analogy, that it never met with a direct opposition. The attorney-general himself distinctly admits it in one part of his address to you, though he seems to deny it in another.—I hope that when I state one part of his speech to be in diametrical opposition to another, he



will not suppose that I attribute the inconsistency to any defect, either in his understanding or his heart; far from it—it arises, I am convinced, from some of the authorities not being sufficiently understood.

In the beginning of his speech he admits that the evidence must be satisfactory and convincing as to the intention; but in the latter part he seems, as it were, to take off the effect of that admission. I wish to give you the very words. I took them down at the time; and if I do not state them correctly, I desire to be corrected. "I most distinctly disavow," said my honourable friend, "every case of construction. I most distinctly disavow any like case of treason not within the letter of the statute. I most distinctly disavow cumulative treason. I most distinctly disavow enhancing guilt by parity of reason. The question undoubtedly is, whether the proof be full and satisfactory to your reasons and consciences that the prisoner is guilty of the treason of compassing the king's death." Gentlemen, I hope that this will always with equal honour be admitted. Now let us see how the rest of the learned gentleman's speech falls in with this.—For he goes on to say, that it is by no means necessary that the distinct, specific intention should pre-exist the overt act. "If the overt act," says he, "be deliberately committed, it is a compassing." But how so, if the intention be admitted to be the treason? What benefit is obtained by the rigorous demand of the statute, that the compassing of the king's death shall be charged by the indictment as the crime if a crime different, or short of it, can be substituted for it in the proof: and how can the statute of Richard 2nd be said to be repealed, which made it high treason to compass to depose the king, independently of intention upon his life, if the law shall declare, notwithstanding the repeal, that they are synonymous terms, and that the one conclusively involves the other?

Gentlemen, if we examine the most prominent cases, which have come in judgment before judges of the most unquestionable authority and after the constitution had become fixed, you will find every thing that I have been saying to you justified and confirmed.

The first great State Trial, after the revolution, was the case of sir John Freind,\* a conspirator in the assassination plot. Sir John Freind was indicted for compassing and imagining the death of king William; and the overt acts charged, and principally relied on, were, first, the sending Mr. Charnock into France to king James, to desire him to persuade the French king to send forces over to Great Britain, to levy war against, and to depose the King, and that Mr. Charnock was actually sent; and, secondly, the preparing men to be levied to form a corps to assist in the restoration of the Pretender, and the expulsion of king William, of which sir John

Freind was to be colonel.—In this case, if the proofs were not to be wholly discredited, and the overt acts were consequently established, they went rationally to convince the mind of every man of the pre-existing intention to destroy the king.—The conspiracy was not to do an act which, though it might lead *eventually* and *speculatively* to the king's death, might not be *foreseen* or *designed* by those who conspired together:—the conspiracy was not directed to an event, probably leading to another, and a different one, and from the happening of which second, a third still different might be engendered, which third might again lead in its consequences to a fourth state of things, which *might*, in the revolution of events, bring on the death of the king, *though never compassed or imagined*:—Freind's conspiracy, on the contrary, had for its *direct* and *immediate* object the restoration of the Pretender to the throne, by the junction of foreign and rebellious force. In my opinion (and I am not more disposed than others to push things beyond their mark in the administration of criminal justice), sir John Freind, if the evidence against him found credit with the jury, could have no possible defence; since the evidence went directly to prove the despatch of Charnock to France, under his direction, to invite the French king to bring over the Pretender into England, and to place him on the throne.—The intention, therefore, of sir John Freind to cut off king William, was a clear inference from the overt act in question; not an inference of *law* for the Court, but of *fact* for the jury, under the guidance of plain common sense; because the consequence of the Pretender's regaining the throne must have been, the attainder of king William by act of parliament.—Some gentlemen seem to look as if they thought not—but I should be glad to hear the position contradicted.—I repeat, that if the Pretender had been restored, as king of England, the legal consequence would have been, that king William would have been a traitor and an usurper, and subject as such to be tried at the Old Bailey, or wherever else the king, who took his place, thought fit to bring him to judgment.—From these premises, therefore, there could be no difficulty of inferring the intention; and, therefore, if ever a case existed, where, from the clearness of the inference, the province of the jury might have been overlooked, and the overt act confounded with the treason, it was in the instance of Freind; but so far was this from being the case, that you will find, on the contrary, every thing I have been saying to you, since I began to address you, summed up and confirmed by that most eminent magistrate lord chief justice Holt, who presided upon that trial.

He begins thus:—"Gentlemen of the jury, look ye, the treason that is mentioned in the indictment is conspiring, compassing, and imagining the death of the king. To PROVE THE CONSPIRACY AND DESIGN OF THE KING'S DEATH,

\* See his case in this Collection, Vol. 13, p. 1.

two principal overt acts are insisted on." He does not consider the overt act of conspiracy and consultation to be the treason, but evidence (as it undoubtedly was in that case) to prove the compassing the death. The chief justice then states the two overt acts above mentioned, and sums up the evidence for and against the prisoner, and leaves the intention to the jury as matter of fact.—For it is not till afterwards that he comes to answer the prisoner's objection in point of law, as the chief justice in terms puts it—"there is another thing," said lord chief justice Holt, "he did insist upon, AND THAT IS MATTER OF LAW. The statute 25th Edward III. was read, which is the great statute about treasons, and that does contain divers species of treason, and declares what shall be treason: one treason is the compassing and imagining the death of the king; another is the levying war. Now says he" (i. e. FREIND), "here is no war actually levied; and a bare conspiracy to levy war, does not come within the law against treason." To pause here a little: Freind's argument was this—whatever my intentions might be—whatever my object of levying war might have been—whatever might have been my design to levy it—however the destruction of the king might have been effected by my conspiracy, if it had gone on—and however it might have been my intention that it should,—it is not treason within the 25th of Edward III.—To which Holt replied, a little incorrectly in language, but right in substance—"Now for that I must tell you, if there be only a conspiracy to levy war, it is not treason," i. e. it is not a substantive treason: it is not a treason in the abstract. "But if the design and conspiracy be either to kill the king, or to depose him, or imprison him, or put any force or restraint upon him," i. e. personal restraint by force, "and the way of effecting these purposes is by levying a war; there the conspiracy and consultation, to levy war for that purpose, is high treason, though no war be levied: for such consultation and conspiracy is AN OVERT ACT PROVING the compassing the death of the king." But what sort of war is it, the bare conspiracy to levy which, is an overt act to prove a design against the king's life, though no war be actually levied? Gentlemen, lord Holt himself illustrates this matter so clearly, that if I had any thing at stake short of the honour and life of the prisoner, I might sit down as soon as I had read it:—for if one did not know it to be an extract from an ancient trial, one would say it was admirably and accurately written for the present purpose.—It is a sort of prophetic bird's eye view of what we are engaged in at this moment:—"there may be war levied (continues lord Holt in Freind's case) without any design upon the king's person, which, if ACTUALLY LEVIED, is high treason, though purposing and designing such a levying of war is not so. As for example: if persons do assemble themselves, and act with force, in opposition to some law, and hope thereby

to get it repealed; this is a levying war, and treason, THOUGH THE PURPOSING AND DESIGNING OF IT IS NOT SO. So when they endeavour, in great numbers, WITH FORCE, to make reformation of their own heads, without pursuing the methods of the law, that is a levying war, BUT THE PURPOSE AND DESIGNING IS NOT SO. But if there be, as I told you, a purpose and design to DESTROY THE KING, AND" (not or to depose him, but and to depose him) "to depose him from his throne, which is proposed and designed to be effected by war that is to be levied; such a conspiracy and consultation to levy war FOR THE BRINGING THIS TO PASS" (i. e. for bringing the king's death to pass) "is an overt act of high treason. So that, gentlemen, as to that objection which he makes, IN POINT OF LAW, it is of no force, if there be evidence sufficient to convince you that he did conspire to levy war FOR SUCH AN END." And he concludes by again leaving the intention expressly to the jury.

It is THE END THEREFORE FOR WHICH the war is to be levied, and not the conspiracy to do any act which the law considers as a levying of war, that constitutes an overt act of treason against the king's life.—The most rebellious movements towards a reform in government, not directed against the king's person, will not, according to lord Holt, support the charge before you.—I might surround the House of Commons with fifty thousand men, for the express purpose of forcing them, by duress, to repeal any law that is offensive to me, or to pass a bill for altering elections, without being a possible object of this prosecution.—Under the other branch of the statute, I might indeed be convicted of levying war, but not of compassing the king's death; and if I only conspired and meditated this rising to repeal laws by rebellion, I could be convicted of nothing but a high misdemeanor.—I would give my friends the case upon a special verdict, and let them hang me if they could.—How much more might I give it them if the conspiracy imputed was not to effect a reform by violence, but, as in the case before us, by pamphlets and speeches, which might produce universal suffrage, which universal suffrage might eat out and destroy aristocracy, which destruction might lead to the fall of monarchy, and, in the end, to the death of the king.—Gentlemen, if the cause were not too serious, I should liken it to the play with which we amuse our children. "This is the cow with the crumpled horn, which gored the dog, that worried the cat, that ate the rat," &c. ending in the "house which Jack built."

I do therefore maintain, upon the express authority of lord Holt, that, to convict a prisoner, charged with this treason, it is absolutely necessary that you should be satisfied of his intention against the king's life, as charged in the indictment, and that no design against the king's government will even be a legal overt act to be left to a jury as the evidence of such an intention (much

substantive and consummate treason), unless the conspiracy be directly pointed against *the person of the king*. The case of lord George Gordon\* is opposed to this as a high and modern decision; and the attorney general descended indeed to a very humble and lowly authority, when he sought to maintain his argument by my own speech, as counsel for that unfortunate person. The passage of it alluded to lies at this moment before me; and I shall repeat it, and re-maintain it to-day.—But let it first be recollected, that lord George Gordon was not indicted for compassing or imagining the king's death, under the first branch of the statute, but for levying war under the second. It never indeed entered into the conception of any man living, that such an indictment could have been maintained, or attempted against him: I appeal to one of your lordships now present, for whose learning and capacity I have the greatest and highest respect, and who sat upon that trial, that it was not insinuated from the bar, much less adjudged by the Court, that the evidence had *any bearing upon the first branch of treason*.—I know that I may safely appeal to Mr. Justice Buller for the truth of this assertion; and nothing surely in the passage from my address to the jury, has the remotest allusion to assimilate a conspiracy against the king's government (collateral to his person) with a treason against his life.—My words were, "*To compass or imagine the death of the king*"; such imagination, or purpose of the mind, visible only to its great Author, being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the government; the life of the prince being so interwoven with the constitution of the state, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other."†

What is this but to say that the king's sacred life is guarded by higher sanctions than the ordinary laws, because of its more inseparable connexion with the public security, and that an attempt to destroy it is therefore made treason against the state? But the attorney general is, I am sure, too correct in his logic to say, that the converse of the proposition is therefore maintained, and that an attack upon the king's authority, without design upon his person, is affirmed by the same expression to be treason against his life.—His correct and enlarged mind is incapable of such confusion of ideas.

But it is time to quit what fell from me upon this occasion, in order to examine the judgment of the Court; and to clothe myself with the authority of that great and venerable magistrate, whose memory will always be dear to me, not only from the eminent services he

rendered to his country in the administration of her justice, but on account of the personal regard and reverence I had for him when living.

Lord Mansfield, in delivering the law to the jury upon lord George Gordon's trial (I appeal to the trial itself, and to Mr. Justice Buller, now present, who agreed in the judgment), expressly distinguished between the safety provided for the king's *natural person*, by the first branch of the statute, and the security of his executive power under the second. That great judge never had an idea that the *natural person* of the king, and the *majesty* of the king, were the same thing; nor that the treasons against them were synonymous: he knew, on the contrary, for he knew all that was to be known, that as *substantive* crimes they never had been blended. I will read his own words:—"There are two kinds of levying war:—one against the *person* of the king: to imprison, to dethrone, or to kill him; or to make him change measures, or remove counsellors:—the other, which is said to be levied against the *majesty* of the king, or, in other words, against him in his *regal capacity*: as when a multitude rise and assemble to attain by force and violence any object of a general public nature; that is levying war against the *majesty* of the king; and most reasonably so held, because it tends to dissolve all the bonds of society, to destroy property and to overturn government; and, by force of arms, to restrain the king from reigning according to law."\* But then observe, gentlemen, *the war must be actually levied*; and here again I appeal to Mr. Justice Buller, for the words of lord Mansfield, expressly referring for what he said to the authority of lord Holt, in sir John Freind's case, already cited: "Lord chief justice Holt, in sir John Freind's case, says:—'If persons do assemble themselves and act with force, in opposition to some law which they think inconvenient, and hope thereby to get it repealed, this is a levying war and treason.' In the present case† it does not rest upon an implication that they hoped by opposition to a law to get it repealed; but the prosecution proceeds upon the direct ground, that the object was, by *force and violence*, to compel the legislature to repeal a law; and therefore, without any doubt, I tell you the joint opinion of us all, that, if this multitude assembled, *with intent by acts of force and violence*, to compel the legislature to repeal a law, it is high treason."‡ Let these words of lord Mansfield be taken down, and then show me the man, let his rank and capacity be what they may, who can remove me from the foundation on which I stand, when I maintain

\* See lord George Gordon's case, Vol. 21, p. 614 of this Collection.

† Lord George Gordon's, then on trial.

‡ See the case of lord George Gordon, *antè* Vol. 21, p. 644.

\* See it in this Collection, Vol. 21, p. 485.

† See Mr. Erskine's speech for lord George Gordon, *antè*, Vol. 21, p. 589.



that a conspiracy to levy war for the objects of reformation, is not only not the high treason charged by this indictment, when not directly pointed against the king's person, but that even the actual levying it would not amount to the constitution of the crime. But this is the least material part of lord Mansfield's judgment, as applicable to the present question; for he expressly considers the *intention* of the prisoner, whatever be the act of treason alleged against him, to be all in all.

—So far from holding the probable or even inevitable consequence of the thing done as constituting the quality of the act, he pronounces them to be nothing as separated from the *criminal design* to produce them.—Lord George Gordon assembled an immense multitude around the House of Commons, a system so opposite to that of the persons accused before this commission, that it appears from the evidence they would not even allow a man to come amongst them, because he had been lord George's attorney.—The Lords and Commons were absolutely blockaded in the chambers of Parliament; and if control was the intention of the prisoner, it must be wholly immaterial what were the deliberations that were to be controlled; whether it was the continuance of Roman Catholics under penal laws, the repeal of the septennial act, or a total change of the structure of the House of Commons, that was the object of violence,—the attack upon the legislature of the country would have been the same. That the multitude were actually assembled round the Houses, and brought there by the prisoner, it was impossible for me as his counsel even to think of denying, nor that their tumultuous proceedings were not in effect productive of great intimidation, and even danger, to the Lords and Commons, in the exercise of their authority:—neither did I venture to question the law, that the assembling the multitude *for that purpose*, was levying war within the statute.—Upon these facts, therefore, applied to the doctrines we have heard upon this trial, there would have been nothing in lord George Gordon's case to try; he must have been instantly without controversy, convicted. But lord Mansfield did not say to the jury (according to the doctrines that have been broached here), that if they found the multitude assembled by the prisoner, were in fact palpably intimidating and controlling the parliament in the exercise of their functions, he was guilty of high treason, *whatever his intentions might have been*.—He did not tell them that the *inevitable consequence* of assembling a hundred thousand people round the legislature, being a control on their proceedings, was therefore a levying war, though collected from folly and rashness, without the *intention* of violence or control.—If this had been the doctrine of lord Mansfield, there would (as I said before) have been nothing to try; for I admitted in terms, that his conduct was the extremity of rashness, and totally inconsistent

with his rank in the country, and his station as a member of the House of Commons.—But the venerable magistrate never for a moment lost sight of the grand ruling principle of criminal justice, that crimes can have no seat but in the mind; and upon the prisoner's *intention*, and upon his *intention alone*, he expressly left the whole matter to the jury, with the following directions, which I shall read verbatim from the trial:

“Having premised these several propositions and principles, the subject matter for your consideration naturally resolves itself into two points:

“First, Whether this multitude did assemble and commit acts of violence, with intent to terrify and compel the legislature to repeal the act called sir George Savile's.—If upon this point your opinion should be in the negative, that makes an end of the whole, and the prisoner ought to be acquitted; but if your opinion should be, that *the intent of this multitude*, and the violence they committed, was to force a repeal, there arises a second point.

“Whether the prisoner at the bar incited, encouraged, promoted, or assisted in raising this insurrection, and the terror they carried with them, *WITH THE INTENT* of forcing a repeal of this law.

“Upon these two points, which you will call your attention to, depends the fate of this trial; for if either the multitude had *no such intent*, or *supposing they had*, if the prisoner was *no cause*, did not excite, and took no part in conducting, counselling, or fomenting the insurrection, the prisoner ought to be acquitted: and there is no pretence that he personally concurred in any act of violence.”\*

I therefore consider the case of lord George Gordon, as a direct authority in my favour.

To show that a conspiracy to depose the king, independently of ulterior intention against his life, is high treason within the statute, the attorney general next supposes that traitors had conspired to depose king William, but still to preserve him as stadtholder in Holland, and asks whether that conspiracy would not be a compassing his death: to that question I answer, that it would not have been a compassing the death of king William, provided the conspirators could have convinced the jury that their firm and *bonâ fide* intention was, to proceed no farther, and that, under that belief and impression, the jury (as they lawfully might) had negatived by their finding, the fact of the intention against the king's natural existence.—I have no doubt at all, that, upon that finding, no judgment of treason could be pronounced: but the difficulty would be, to meet with a jury, who, upon the bare evidence of such a conspiracy, would find such a verdict. There might be possible circumstances to justify such a negative of the intention, but they

\* “See lord George Gordon's trial, ante, Vol. 21, pp. 616, 647.

must come from the prisoner. In that case the Crown would rest upon the conspiracy to depose, which would be *prima facie* and cogent evidence of the compassing, and leave the hard task of rebutting it, on the defendants:—I say the hard task, because the case put is of a direct rebellious force, acting against the king; not only abrogating his authority, but imprisoning and expelling his person from the kingdom. I am not seeking to abuse the reasons and consciences of juries in the examination of facts, but am only resisting the confounding them with arbitrary propositions of law.

Gentlemen, I hope I have now a right to consider that the existence of the high treason charged against the unfortunate man before you, is a matter of fact for your consideration upon the evidence.—To establish this point, has been the scope of all that you have been listening to, with so much indulgence and patience. It was my intention to have farther supported myself, by a great many authorities, which I have been laboriously extracting from the different books of the law; but I find I must pause here, lest I consume my strength in this preliminary part of the case, and leave the rest defective.

Gentlemen, the persons named in the indictment, are charged with a conspiracy to subvert the rule, order, and government of this country; and it is material that you should observe most particularly the means by which it alleges this purpose was to be accomplished.—The charge is not of a conspiracy to hold the convention in Scotland, which was actually held there; nor of the part they took in its actual proceedings; but the overt act, to which all the others are subsidiary and subordinate, is, a supposed conspiracy to hold a convention in England, which never in fact was held; and consequently all the vast load of matter which it has been decided you should hear, that does not immediately connect itself with the charge in question, is only laid before you (as the Court has repeatedly expressed it) to prove that in point of fact such proceedings were had, the quality of which is for your judgment; and as far, and as far only, as they can be connected with the prisoner, and the act which he stands charged with, to be left to you, as evidence of the intention with which the holding of the second convention was projected.

THIS INTENTION is therefore the whole cause—for the charge is not the agreement to hold a convention, which it is notorious, self-evident, and even admitted that they intended to hold; but the agreement to hold it for the purpose alleged, of assuming all the authority of the state, and in fulfilment of the main intention against the life of the king. Unless, therefore, you can collect this double intention from the evidence before you, the indictment is not maintained.

Gentlemen, the  
conspiracy, (

involved beyond all controversy, and within the certain knowledge of the conspirators, the lives of every soul that was engaged in it; the first observation which I shall make to you (because in reason it ought to precede all others) is, that every act done by the prisoners, and every sentence written by them, in the remotest degree connected with the charge, or offered in evidence to support it, were done and written in the public face of the world:—the transactions which constitute the whole body of the proof, were not those of a day, but in regular series for two years together; they were not the peculiar transaction of the prisoners, but of immense bodies of the king's subjects, in various parts of the kingdom, assembled without the smallest reserve, and giving to the public, through the channel of the daily newspapers, a minute and regular journal of their whole proceedings. Not a syllable have we heard read, in the week's imprisonment we have suffered, that we had not all of us read for months and months before the prosecution was heard of; and which, if we are not sufficiently satiated, we may read again upon the file of every coffee-house in the kingdom.—It is admitted distinctly by the crown, that a reform in the House of Commons is the ostensible purpose of all the proceedings laid before you; and that the attainment of that object only, is the grammatical sense of the great body of the written evidence.—It rests therefore with the crown, to show by LEGAL PROOFS that this OSTENSIBLE purpose, and the whole mass of correspondence upon the table, was only a cloak to conceal a hidden machination, to subvert by force the entire authorities of the kingdom, and to assume them to themselves. Whether a reform of parliament be a wise or an unwise expedient; whether, if it were accomplished, it would ultimately be attended with benefits, or dangers, to the country, I will not undertake to investigate, and for this plain reason; because it is wholly foreign to the subject before us.—But when we are trying the integrity of men's intentions, and are examining whether their complaints of defects in the representation of the House of Commons, be *bonâ fide*, or only a mere stalking-horse for treason and rebellion, it becomes a most essential inquiry, whether they be the first who have uttered these complaints;—whether they have taken up notions for the first time, which never occurred to others; and whether, in seeking to interfere practically in an alteration of the constitution, they have manifested, by the novelty of their conduct, a spirit inconsistent with affection for the government, and subversive of its authority. Gentlemen, I, for one, confess (for I think the safest way of defending a person for his life before an enlightened tribunal, is to defend him ingenuously), I, for one, confess, that if the defects in the constitution of parliament are the subject of the writings, of all the proceedings be-

fore you, had never occurred to other persons at other times, or, if not new, they had only existed in the history of former conspiracies, I should be afraid you would suspect, at least, that the authors of them were plotters of mischief.—In such a case I should naturally expect that you would ask yourselves this question—Why should it occur to the prisoner at the bar, and to a few others in the year 1794, immediately after an important revolution in another country, to find fault, on a sudden, with a constitution which had endured for ages, without the imputation of defect, and which no good subject had ever thought of touching with the busy hand of reformation? I candidly admit that such a question would occur to the mind of every reasonable man, and could admit no favourable answer.—But surely this admission entitles me, on the other hand, to the concession, that if, in comparing their writings, and examining their conduct with the writings and conduct of the best and most unsuspected persons in the best and most unsuspected times, we find them treading in the paths which have distinguished their highest superiors; if we find them only exposing the same defects, and pursuing the same or similar courses for their removal,—it would be the height of wickedness and injustice to torture expressions, and pervert conduct into treason and rebellion, which had recently lifted up others to the love of the nation, to the confidence of the sovereign, and to all the honours of the state. The natural justness of this reasoning is so obvious, that we have only to examine the fact; and, considering under what auspices the prisoners are brought before you, it may be fit that I should set out with reminding you, that the great earl of Chatham began and established the fame and glory of his life upon the very cause in which my unfortunate clients were engaged, and that he left it as an inheritance to the present minister of the crown, as the foundation of his fame and glory after him; and his fame and glory were accordingly raised upon it; and if the crown's evidence had been carried as far back as it might have been (for the institution of only one of the two London Societies is before us), you would have found that the Constitutional Society owed its earliest credit with the country, if not its very birth, to the labour of the present minister, and its professed principles to his grace the duke of Richmond, high also in his majesty's present councils, whose plan of reform has been clearly established by the whole body of the written evidence, and by every witness examined for the crown, to have been the type and model of all the societies in the supposed conspiracy, and uniformly acted upon in form and in substance by the prisoner before you, up to the very period of his confinement.

Gentlemen, the duke of Richmond's plan was universal suffrage and annual parliaments; and urged too with a boldness, which,

when the comparison comes to be made, will leave in the back ground the strongest figures in the writings on the table.—I do not say this sarcastically; I mean to speak with the greatest respect of his Grace, both with regard to the wisdom and integrity of his conduct; for although I have always thought in politics with the illustrious person whose letter was read to you; although I think, with Mr. Fox, that annual parliaments and universal suffrage would be nothing like an improvement in the constitution; yet I confess that I find it easier to say so than to answer the duke of Richmond's arguments on the subject; and I must say besides, speaking of his grace from a long personal knowledge, which began when I was counsel for his relation lord Keppel, that, independently of his illustrious rank, which secures him against the imputation of trifling with its existence, he is a person of an enlarged understanding, of extensive reading, and of much reflection; and that his book cannot therefore be considered as the effusion of rashness and folly, but as the well-weighed, though perhaps erroneous, conclusions drawn from the actual condition of our affairs, viz. that without a speedy and essential reform in parliament (and there my opinion goes along with him) the very being of the country, as a great nation, would be lost. This plan of the duke of Richmond was the grand main spring of every proceeding we have to deal with;—you have had a great number of loose conversations reported from societies, on which no reliance can be had; sometimes they have been garbled by spies, sometimes misrepresented by ignorance; and even, if correct, have frequently been the extravagances of unknown individuals, not even uttered in the presence of the prisoner, and totally unconnected with any design; for whenever their proceedings are appealed to, and their real object examined, by living members of them, brought before you by the crown, to testify them under the most solemn obligations of truth, they appear to have been following, *in form and in substance, the plans adopted within our memories, not only by the duke of Richmond, but by hundreds of the most eminent men in the kingdom.* The duke of Richmond formally published his plan of reform in the year 1780, in a letter to lieutenant colonel Sharman, who was at that time practically employed upon the same object in Ireland; and this is a most material part of the case; because you are desired to believe that the terms CONVENTION, and DELEGATES, and the holding the one, and sending the other, were all collected from what had recently happened in France, and were meant as the formal introduction of her republican constitution: but they who desire you to believe all this, do not believe it themselves; because they know certainly, and it has indeed already been proved by their own witnesses, that conventions of reformers were held in Ireland, and delegates regularly sent to them, whilst France was under the dominion of her ancient



government.—They knew full well that colonel Sharman, to whom the duke's letter was addressed, was at that very moment supporting a convention in Ireland, at the head of ten thousand men in arms, for the defence of their country, without any commission from the king, any more than poor Franklow had, who is now in Newgate, for regimenting sixty.—These volunteers asserted and saved the liberties of Ireland; and the king would, at this day, have had no more subjects in Ireland than he now has in America, if they had been treated as traitors to the government.—It was never imputed to colonel Sharman and the volunteers, that they were in rebellion,—yet they had arms in their hands, which the prisoners never dreamed of having; whilst a grand general convention was actually sitting under their auspices at the royal Exchange of Dublin, attended by regular delegates from all the counties in Ireland.—And who were these delegates?—I will presently tear off their names from this paper, and hand it to you.—They were the greatest, the best, and proudest names in Ireland;—men who had the wisdom to reflect (before it was too late for reflection) that greatness is not to be supported by tilting at inferiors, till, by the separation of the higher from the lower orders of mankind, every distinction is swept away in the tempest of revolution; but in the happy harmonization of the whole community; by conferring upon the people their rights; sure of receiving the auspicious return of affection, and of ensuring the stability of the government, which is erected upon that just and natural basis.—Gentlemen, they who put this tortured construction on conventions and delegates, know also that repeated meetings of reforming societies, both in England and Scotland, had assumed about the same time the style of conventions, and had been attended by regular delegates, long before the phrase had, or could have, any existence in France; and that upon the very model of these former associations, a formal convention was actually sitting at Edinburgh, with the lord chief baron of Scotland in the chair, for promoting a reform in parliament, at the very moment the Scotch Convention, following its example, assumed that title.

To return to this letter of the duke of Richmond:—It was written to colonel Sharman, in answer to a letter to his grace, desiring to know his plan of reform, which he accordingly communicated by the letter which is in evidence; and which plan was neither more nor less than that adopted by the prisoners, of surrounding parliament (unwilling to reform its own corruptions), nor by armed men, or by importunate multitudes, but by the still and universal voice of a whole people CLAIMING THEIR KNOWN AND UNALIENABLE RIGHTS.—This is so precisely the plan of the duke of Richmond, that I have almost borrowed his expressions. His grace says, "*The lesser reform has been attempted with every possible*

advantage in its favour; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps it has failed. Not one proselyte has been gained from corruption, nor has the least ray of hope been held out from any quarter that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan in the same circumstances. From that quarter, therefore, I have nothing to hope. IT IS FROM THE PEOPLE AT LARGE THAT I EXPECT ANY GOOD:—and I am convinced, that the only way to make them feel that they are really concerned in the business, is, to contend for their *full, clear, and indisputable rights of universal representation*." Now how does this doctrine apply to the defence of the prisoner?—I maintain that it has the most decisive application; because this book has been put into the hands of the crown witnesses, who have one and all of them recognised it, and declared it to have been, *bonâ fide*, the plan which they pursued.

But are the crown's witnesses worthy of credit?—If they are not, let us return home, since there is no evidence at all, and the cause is over.—All the guilt, if any there be, proceeds from their testimony; if they are not to be believed, they have proved nothing; since the crown cannot force upon you that part of the evidence which suits its purpose, and ask you to reject the other which does not. The witnesses are either entirely credible, or undeserving of all credit, and I have no interest in the alternative. This is precisely the state of the cause.—For, with regard to all the evidence that is written, let it never be forgotten, that it is not upon me to defend my clients against it, but for the crown to extract from it the materials of accusation.—They do not contend that the treason is upon the surface of it, but in the *latent intention*; which intention must, therefore, be supported by extrinsic proof; but which is nevertheless directly negatived and beat down by every witness they have called, leaving them nothing but commentaries and criticisms against both fact and language, to which, for the present, I shall content myself with replying in the authoritative language of the Court, in the earliest stage of the proceedings:

"If there be ground to consider the professed purpose of any of these associations, a reform in parliament, as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country; the case of those embarked in such designs is that which I have already considered. Whether this be so, or not, is mere matter of fact; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a more

veil, under which is concealed a traitorous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence." \*

To this (though it requires nothing to support it, either in reason or authority) I desire to add the direction of lord chief justice Holt to the jury, on the trial of sir John Parkyns:

"Gentlemen; it is not fit that there should be any strained or forced construction put upon a man's actions when he is tried for his life. You ought to have a full and satisfactory evidence that he is guilty, before you pronounce him so."†

In this assimilation of the writings of the societies to the writings of the duke of Richmond and others, I do not forget that it has been truly said by the lord chief justice, in the course of this very cause, that ten or twenty men's committing crimes, furnishes no defence for other men in committing them. Certainly it does not; and I fly to no such sanctuary; but in trying the prisoner's intentions, and the intentions of those with whom he associated and acted, if I can show them to be only insisting upon the same principles that have distinguished the men most eminent for wisdom and virtue in the country, it will not be very easy to declaim or argue them into the pains of death, whilst our bosoms are glowing with admiration at the works of those very persons who would condemn them.

Gentlemen, it has been too much the fashion of late to overlook the genuine source of all human authority, but more especially totally to forget the character of the British House of Commons as a representative of the people;—whether this has arisen from that assembly's having itself forgotten it, would be indecent for me to inquire into or to insinuate;—but I shall preface the authorities which I mean to collect in support of the prisoner, with the opinion on that subject of a truly celebrated writer, of whom I wish to speak with great respect: I should, indeed, be ashamed, particularly at this moment, to name him invidiously, while he is bending beneath the pressure of a domestic misfortune, which no man out of his own family laments more sincerely than I do.‡—No difference of opinion can ever make me forget to acknowledge the sublimity of his genius, the vast reach of his understanding, and his universal acquaintance with the histories and constitution of nations; I also disavow the introduction of the writings, with

the view of involving the author in any apparent inconsistencies, which would tend, indeed, to defeat rather than to advance my purpose.—I stand here to-day to claim at your hands, a fair and charitable interpretation of human conduct, and I shall not set out with giving an example of uncharitableness.—A man may have reason to change his opinions, or perhaps the defect may be in myself, who collect that they are changed; I leave it to God to judge of the heart—my wish is, that christian charity may prevail;—that the public harmony, which has been lost, may be restored;—that all England may reunite in the bonds of love and affection;—and that when the court is broken up by the acquittal of the prisoners, all heart-burnings and animosities may cease;—that, whilst yet we work in the light, we may try how we can save our country by a common effort; and that, instead of shamelessly setting one half of society against the other by the force of armed associations, and the terrors of courts of justice, our spirits and our strength may be combined in the glorious cause of our country.—By this, I do not mean in the cause of the present war, which I protest against as unjust, calamitous, and destructive; but this is not the place for such a subject, I only advert to it to prevent mistake or misrepresentation.

The history and character of the English House of Commons was formerly thus described by Mr. Burke: "The House of Commons was supposed originally to be no part of the standing government of this country, but was considered as a control issuing immediately from the people, and speedily to be resolved into the mass from whence it arose: in this respect it was in the higher part of government what juries are in the lower. The capacity of a magistrate being transitory, and that of a citizen permanent, the latter capacity, it was hoped, would of course preponderate in all discussions, not only between the people and the standing authority of the Crown, but between the people and the fleeting authority of the House of Commons itself. It was hoped, that, being of a middle nature, between subject and government, they would feel with a more tender and a nearer interest, every thing that concerned the people, than the other remoter and more permanent parts of legislature.

"Whatever alterations time and the necessary accommodation of business may have introduced, this character can never be sustained, unless the House of Commons shall be made to bear some stamp of the actual disposition of the people at large: it would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical frenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should, in all cases, be wholly untouched—

\* See Lord Chief Justice Eyre's charge to the grand jury, who found the indictment, and p. 205.

† See Vol. 18, p. 132 of this Collection.  
‡ Mr. Burke's son was then dying.

the opinions and feelings of the people out of doors. By this want of sympathy, they would cease to be a House of Commons.

"The virtue, spirit, and essence of a House of Commons, consists in its being the express image of the feelings of the nation. It was not instituted to be a control upon the people, as of late it has been taught, by a doctrine of the most pernicious tendency, but as a control for the people."

He then goes on to say, that to give a technical shape, a colour, dress, and duration to popular opinion, is the true office of a House of Commons.—Mr. Burke is unquestionably correct;—the control upon the people is the king's majesty, and the hereditary privileges of the peers;—the balance of the state is the control over the people upon both, in the existence of the House of Commons;—but how can that control exist over the people, unless they have the actual election of the House of Commons, which, it is most notorious, they have not?—I hold in my hand a state of the representation which, if the thing were not otherwise notorious, I would prove to have been lately offered in proof to the House of Commons, by an honourable friend of mine now present,\* whose motion I had the honour to second, where it appeared that 12,000 people return near a majority of the House of Commons, and those again, under the control of about 200. But though these facts were admitted, all redress, and even discussion, was refused.—What ought to be said of a House of Commons that so conducts itself, it is not for me to pronounce; I will appeal, therefore, to Mr. Burke, who says, "that a House of Commons, which in all disputes between the people and administration presumes against the people, which punishes their disorders, but refuses even to inquire into their provocations, is an unnatural, monstrous state of things in the constitution." †

But this is nothing: Mr. Burke goes on afterwards to give a more full description of Parliament, and in stronger language (let the Solicitor General take it down for his reply), than any that has been employed by those who are to be tried at present as conspirators against its existence.—I read the passage, to warn you against considering hard words against the House of Commons as decisive evidence of treason against the King.—The passage is in a well-known work, called, *Thoughts on the Causes of the present Discontents*; and such discontents will always be present, whilst their causes continue.—The word PRESENT will apply just as well now,

and much better than to the times when the honourable gentleman wrote his book; for we are now in the heart and bowels of another war, and groaning under its additional burdens.—I shall therefore leave it to the learned gentleman, who is to reply, to show us what has happened since our author wrote, which renders the parliament less liable to the same observations now.

"It must be always the wish of an unconstitutional statesman, that a House of Commons, who are entirely dependent upon him, should have every right of the people entirely dependent upon their pleasure. For it was soon discovered that the forms of a free, and the ends of an arbitrary government, were things not altogether incompatible.

"The power of the Crown, almost dead and rotten as prerogative, has grown up anew, with much more strength and far less odium, under the name of influence.—An influence which operated without noise and violence; which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tended to augment, was an admirable substitute for a prerogative, that, being only the offspring of antiquated prejudices, had moulded in its original stamina irresistible principles of decay and dissolution."\*

What is this but saying that the House of Commons is a settled and scandalous abuse fastened upon the people, instead of being an antagonist power for their protection; an odious instrument of power in the hands of the Crown, instead of a popular balance against it? Did Mr. Burke mean that the prerogative of the crown, properly understood and exercised, was an antiquated prejudice? Certainly not; because his attachment to a properly balanced monarchy is notorious:—why then is it to be fastened upon the prisoners, that they stigmatize monarchy, when they also exclaim *only against its corruptions*? In the same manner, when he speaks of the abuses of parliament, would it be fair in Mr. Burke to argue, from the strict legal meaning of the expression, that he included, in the censure on parliament, the king's person, or majesty, which is part of the parliament? In examining the work of an author you must collect the sense of his expressions from the subject he is discussing; and if he is writing of the House of Commons as it affects the structure and efficacy of the government, you ought to understand the word parliament so as to meet the sense and obvious meaning of the writer.—Why then is this common justice refused to others?—Why is the word parliament to be taken in its strictest and least obvious sense against a poor shoe-maker or any plain tradesman at a Sheffield club, while it is

\* Mr. Charles Grey, afterwards second earl Grey: but on the subject of a Parliamentary Reform, see the opinions expressed by lord Grey and lord Erskine in the House of Peers, see Hansard's Parliamentary Debates, vol. 85, p. 425, 486.

† See Burke's Works, Vol. 2, p. 289, ed. of 1808.

\* See Burke's Works, Vol. 2, p. 299, ed. of 1808.



interpreted in its popular, though less correct acceptation, in the works of the most distinguished scholar of the age?—Add to this, that the cases are not at all similar: for Mr. Burke uses the word *parliament* throughout, when he is speaking of the House of Commons, without any concomitant words which convey an explanation, but the sense of his subject; whereas *parliament* is fastened upon the prisoner as meaning something beyond the House of Commons, when it can have no possible meaning beyond it; since from the beginning to the end it is joined with the words *representation of the people*:—the representation of the people in parliament!—Does not this most palpably mean the House of Commons, when we know that the people have no representation in either of the other branches of the government?

A letter has been read in evidence from Mr. Hardy to Mr. Fox, where he says their object was universal representation. Did Mr. Fox suppose, when he received this letter, that it was from a nest of republicans, clamouring publicly for an universal representative constitution like that of France?—If he had, would he have sent the answer he did, and agreed to present their petition?—They wrote also to the Society of the Friends of the People, and invited them to send delegates to the Convention:—the attorney-general, who has made honourable and candid mention of that body, will not suppose that it would have contented itself with refusing the invitation in terms of cordiality and regard, if, with all the knowledge they had of their transactions, they had conceived themselves to have been invited to the formation of a body, which was to over-rule and extinguish all the authorities of the state: yet upon the perversion of these two terms, *parliament* and *convention*, against their natural interpretation, against a similar use of them by others, and against the solemn explanation of them by the Crown's own witnesses, this whole fabric of terror and accusation stands for its support: letters, it seems, written to other people, are to be better understood by the gentlemen round this table, who never saw them till months after they were written, than by those to whom they were addressed and sent; and no right interpretation, forsooth, is to be expected from writings when pursued in their regular series, but they are to be made distinct by binding them up in a large volume, alongside of others totally unconnected with them, and the very existence of whose authors was unknown to one another.

I will now, gentlemen, resume the reading of another part of Mr. Burke, and a pretty account it is of this same parliament: "They who will not conform their conduct to the public good, and cannot support it by the prerogative of the crown, have adopted a new plan. They have totally abandoned the shattered and old-fashioned fortress of prerogative, and made a lodgment in the strong-hold

of parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into parliament. There the whole is executed from the beginning to the end; and the power of obtaining their object absolute, and the safety in the proceeding perfect; no rules to confine, nor after-reckonings to terrify. For parliament cannot, with any great propriety, punish others, for things in which they themselves have been accomplices. Thus its control upon the executive power is lost."<sup>\*</sup>

This is a proposition universal. It is not that the popular control was lost under this or that administration, but, GENERALLY, that the people have no control in the House of Commons. Let any man stand up and say that he disbelieves this to be the case; I believe he would find nobody to believe him. Mr. Burke pursues the subject thus: "The distempers of monarchy were the great subjects of apprehension and redress in the last century—in *this*, the distempers of parliament." Here the word *parliament*, and the abuses belonging to it, are put in express opposition to the monarchy, and cannot therefore comprehend it: the distempers of parliament then are objects of serious apprehension and redress. What distempers? Not of this or that year, but the habitual distempers of parliament; and then follows the nature of the remedy, which shows that the prisoners are not singular in thinking that it is by the voice of the people only that parliament can be corrected. "It is not in parliament alone," says Mr. Burke, "that the remedy for parliamentary disorders can be completed; and hardly indeed can it begin there. Until a confidence in government is re-established, the people ought to be excited to a more strict and detailed attention to the conduct of their representatives. Standards for judging more systematically upon their conduct ought to be settled in the meetings of counties and corporations, and frequent and correct lists of the voters in all important questions, ought to be procured. By such means something may be done."<sup>†</sup>

It was the same sense of the impossibility of a reform in parliament, without a general expression of the wishes of the people, that dictated the duke of Richmond's Letter: all the petitions in 1780 had been rejected by parliament;—this made the duke of Richmond exclaim, that from that quarter no redress was to be expected, and that from the people alone he expected any good; and he, therefore, expressly invited them to claim and to assert an equal representation as their indubitable and unalienable birth-right:—how to assert their rights, when parliament had already refused them without even the hope, as the duke expressed it, of listening to them any more?

\* See Burke's Works, Vol. 2, p. 324, ed. of 1808.

† See Burke's Works, Vol. 2, p. 324.

Could the people's rights, under such circumstances, be asserted without rebellion? Certainly they might: for rebellion is, when bands of men within a state oppose themselves, by violence, to the general will, as expressed or implied by the public authority; but the sense of a *whole people*, peaceably collected, and operating by its natural and certain effect upon the public councils, is not rebellion, but is paramount to, and the parent of, authority itself.

Gentlemen, I am neither vindicating, nor speaking, the language of inflammation or discontent;—I shall speak nothing that can disturb the order of the state; I am full of devotion to its dignity and tranquillity, and would not for worlds let fall an expression in this or in any other place that could lead to disturbance or disorder:—but for that very reason, I speak with firmness of THE RIGHTS OF THE PEOPLE, and am anxious for the redress of their complaints; because I believe a system of attention to them to be a far better security and establishment of every part of the government, than those that are employed to preserve them.—The state and government of a country rest, for their support, on the great body of the people, and I hope never to hear it repeated, in any court of justice, that peaceably to convene the people upon the subject of their own privileges, can lead to the destruction of the king:—they are the king's worst enemies who hold this language.—It is a most dangerous principle, that the crown is in jeopardy, if the people are acquainted with their rights, and that the collecting them together to consider of them, leads inevitably to the destruction of the sovereign.—Do these gentlemen mean to say that the king sits upon his throne without the consent, and in defiance of the wishes of the great body of his people, and that he is kept upon it by a few individuals who call themselves his friends, in exclusion of the rest of his subjects?—Has the king's inheritance no deeper or wider roots than this? Yes, gentlemen, it has—it stands upon the love of the people, who consider their own inheritance to be supported by the king's constitutional authority: this is the true prop of the throne; and the love of every people upon earth will for ever uphold a government, founded, as ours is, upon reason and consent, as long as government shall be itself attentive to the general interests which are the foundations and the ends of all human authority.—Let us banish then these unworthy and impolitic fears of an unrestrained and an enlightened people;—let us not tremble at the rights of man, but, by giving to men their rights, secure their affections, and, through their affections, their obedience;—let us not broach the dangerous doctrine that the rights of kings and of men are incompatible.—Our government at the Revolution began upon their harmonious incorporation; and Mr. Locke defended king William's title upon no other principle than the rights, of

men. It is from the revered work of Mr. Locke, and not from the revolution in France, that one of the papers in the evidence, the most stigmatized, most obviously flowed; for it is proved that Mr. Yorke held in his hand Mr. Locke upon government, when he delivered his speech on the Castle-hill at Sheffield, and that he expatiated largely upon it;—well, indeed, might the witness say he expatiated largely, for there are many well-selected passages taken *verbatim* from the book; and here, in justice to Mr. White,\* let me notice the fair and honourable manner in which, in the absence of the clerk, he read this extraordinary performance. He delivered it not merely with distinctness, but in a manner so impressive, that, I believe, every man in court was affected by it.

Gentlemen, I am not driven to defend every expression; some of them are undoubtedly improper, rash, and inflammatory; but I see nothing in the whole taken together, even if it were connected with the prisoner, that goes at all to an evil purpose in the writer. But Mr. Attorney General has remarked upon this proceeding at Sheffield (and whatever falls from a person of his rank and just estimation, deserves great attention), he has remarked that it is quite apparent they had resolved not to petition.—They had certainly resolved not *at that season* to petition, and that seems the utmost which can be maintained from the evidence.—But supposing they had negatived the measure altogether; is there no way by which the people may actively associate for the purposes of a reform in parliament, but to consider of a petition to the House of Commons? Might they not legally assemble to consider the state of their liberties, and the conduct of their representatives?—Might they not legally form conventions or meetings (for the name is just nothing) to adjust a plan of rational union for a wise choice of representatives when parliament should be dissolved?—May not the people meet to consider their interests preparatory to, and independently of, a petition for any specific object?—My friend seems to consider the House of Commons as a substantive and permanent part of the constitution;—he seems to forget that the parliament dies a natural death;—that the people then re-enter into their rights, and that the exercise of them is the most important duty that can belong to social man:—how are such duties to be exercised with effect, on momentous occasions but by concert and communion?—May not the people assembled in their elective districts, resolve to trust no longer those by whom they have been betrayed? May they not resolve to vote for no man who contributed by his voice to this calamitous war, which has thrown such grievous and unnecessary burthens upon them? May they not say, "We will not vote for those who

\* At the time of this trial solicitor to the treasury.

deny we are their constituents; not for those who question our clear and natural right to be equally represented?"—Since it is illegal to carry up petitions, and unwise to transact any public business attended by multitudes, because it tends to tumult and disorder, may they not, for that very reason, depute, as they have done, the most trusty of their societies to meet with one another to consider, without the specific object of petitions, how they may claim, by means which are constitutional, their imprescriptible rights? And here I must advert to an argument employed by the attorney-general, that the views of the societies towards universal suffrage, carried in themselves (however sought to be effected) an implied force upon parliament:—for that, supposing by invading it with the vast pressure, not of the public arm, but of the public sentiment of the nation, the influence of which upon that assembly is admitted ought to be weighty, it could have prevailed upon the Commons to carry up a bill to the king for universal representation and annual parliaments, his majesty was bound to reject it; and could not, without a breach of his coronation oath, consent to pass it into an act:—I cannot conceive where my friend met with this law, or what he can possibly mean by asserting that the king cannot, consistently with his coronation oath, consent to any law that can be stated or imagined, presented to him as the act of the two Houses of parliament:—he could not, indeed, consent to a bill sent up to him framed by a convention of delegates assuming legislative functions; and if my friend could have proved that the societies, sitting as a parliament, had sent up such a bill to his majesty, I should have thought the prisoner, as a member of such a parliament, was at least in a different situation from that in which he stands at present: but as this is not one of the chimeras whose existence is contended for, I return back to ask, upon what authority it is maintained, that universal representation and annual parliaments could not be consented to by the king, in conformity to the wishes of the other branches of the legislature:—on the contrary, one of the greatest men that this country ever saw considered universal representation to be such an inherent part of the constitution as that the king himself might grant it by his prerogative, even without the Lords and Commons; and I have never heard the position denied upon any other footing than the union with Scotland.—But be that as it may, it is enough for my purpose that the maxim, that the king might grant universal representation, as a right before inherent in the whole people to be represented, stands upon the authority of Mr. Locke, the man, next to sir Isaac Newton, of the greatest strength of understanding that England, perhaps, ever had; high too in the favour of king William, and enjoying one of the most exalted offices in the state.—Mr. Locke says, book 2d, ch. 13, sect.

157 and 158—"Things of this world are in so constant a flux, that nothing remains long in the same state. Thus people, riches, trade, power, change their stations, flourishing mighty cities come to ruin, and prove, in time, neglected, desolate corners, whilst other unfrequented places grow into populous countries, filled with wealth and inhabitants. But things not always changing equally, and private interest often keeping up customs and privileges, when the reasons of them are ceased, it often comes to pass, that in governments, where part of the legislative consists of *representatives* chosen by the people, that in tract of time this *representation* becomes very *unequal* and disproportionate to the reasons it was at first established upon. To what gross absurdities the following of custom, when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheepcote, or more inhabitants than a shepherd is to be found, sends as *many representatives* to the grand assembly of law-makers, as a whole county, numerous in people, and powerful in riches. This strangers stand amazed at, and every one must confess needs a remedy."

"*Salus populi suprema lex*, is certainly so just and fundamental a rule, that he who sincerely follows it, cannot dangerously err. If, therefore, the executive, who has the power of convoking the legislative, observing rather the true proportion, than fashion of *representation*, regulates, not by old custom, but true reason, the *number of members* in all places that have a right to be distinctly represented, which no part of the people, however incorporated, can pretend to, but in proportion to the assistance which it affords to the public, it cannot be judged to have set up a new legislative, but to have restored the old and true one, and to have rectified the disorders which succession of time had insensibly, as well as inevitably introduced; for it being the interest as well as intention of the people to have a fair and *equal representative*, whoever brings it nearest to that, is an undoubted friend to, and establisher of the government, and cannot miss the consent and approbation of the community; *prerogative* being nothing but a power, in the hands of the prince, to provide for the public good, in such cases, which depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct; whatsoever shall be done manifestly for the good of the people, and the establishing the government upon its true foundations, is, and always will be, just prerogative. Whatsoever cannot but be acknowledged to be of advantage to the society, and people in general, when done, justify itself; and whenever the people shall choose their *representatives* upon just and undeniably equal measures, suitable to the original frame of the government



cannot be doubted to be the will and act of the society, whoever permitted or caused them so to do."—But as the very idea of universal suffrage seems now to be considered not only to be dangerous to, but absolutely destructive of monarchy, you certainly ought to be reminded that the book which I have been reading, and which my friend kindly gives me a note to remind you of, was written by its immortal author in defence of king William's title to the crown; and when Dr. Sacheverel<sup>a</sup> ventured to broach those doctrines of power and non-resistance, which, under the same establishments, have now become so unaccountably popular; he was impeached by the people's representatives for denying their rights, which had been asserted and established at the glorious æra of the Revolution.

Gentlemen, if I were to go through all the matter which I have collected upon this subject, or which obtrudes it upon my mind from common reading, in a thousand directions, my strength would fail long before my duty was fulfilled; I had very little when I came into court, and I have abundantly less already; I must, therefore, manage what remains to the best advantage; and shall proceed, now, to take a view of such parts of the evidence as appear to me to be the most material for the proper understanding of the case; I have had no opportunity of considering it, but in the interval which the indulgence of the Court, and your own, has afforded me, and that has been but for a very few hours this morning: but it occurred to me, that the best use I could make of the time given to me was, if possible, to disembroil this chaos; to throw out of view every thing irrelevant, which only tended to bring chaos back again—to take what remained in order of time—to select certain stages and resting places—to review the effect of the transactions, as brought before us, and then to see how the written evidence is explained by the testimony of the witnesses who have been examined.

The origin of the Constitutional Society not having been laid in evidence before you, the chief thing both in point of date, and as applying to show the objects of the different bodies is the original address and resolution of the Corresponding Society on its institution, and when it first began to correspond with the other, which had formerly ranked amongst its members so many illustrious persons; and before we look to the matter of this institution, let us recollect that the objects of it were given without reserve to the public, as containing the principles of the association; and I may begin with demanding, whether the annals of this country, or indeed the universal history of mankind, afford an instance of a plot and conspiracy voluntarily given in its very infancy to government.

whole public, and of which, to avoid the very thing that has happened, the arraignment of conduct at a future period, and the imputation of secrecy where no secret was intended, a regular notice by letter was left with the secretary of state, and a receipt taken at the public office, as a proof of the publicity of their proceeding, and the sense they entertained of their innocence. For the views and objects of the society, we must look to the institution itself, which you are, indeed, desired to look at by the crown; for their intentions are not considered as deceptions in this instance, but as plainly revealed by the very writing itself.

Gentlemen, there was a sort of silence in the Court—I do not say an affected one, for I mean no possible offence to any one, but there seemed to be an effect expected from beginning, not with the address itself, but with the very bold motto to it, though in verse:

"Unblest by virtue, government a league  
"Becomes, a circling junto of the great  
"To rob by law; religion mild, a yoke  
"To tame the stooping soul, a trick of state  
"To mask their rapine, and to share the prey.  
"Without it, what are senates, but a face  
"Of consultation deep and reason free,  
"While the determin'd voice and heart are sold?  
"What, boasted freedom, but a sounding name?  
"And what election, but a market vile,  
"Of slaves self-barter'd?"

I almost fancy I heard them say to me, What think you of that to set out with?—Show me the parallel of that.—Gentlemen, I am sorry, for the credit of the age we live in, to answer, that it is difficult to find the parallel; because the age affords no such poet as he who wrote it:—these are the words of Thomson:—and it is under the banners of his proverbial benevolence, that these men are supposed to be engaging in plans of anarchy and murder; under the banners of that great and good man, whose figure you may still see in the venerable shades of Hagley, placed there by the virtuous, accomplished, and public-spirited Lyttelton:—the very poem too, written under the auspices of his majesty's royal father, when heir-apparent to the crown of Great Britain, nay, within the very walls of Carlton-house, which afforded an asylum to matchless worth and genius in the person of this great poet: it was under the roof of a PRINCE OF WALES that the poem of LIBERTY was written; and what better return could be given to a prince for his protection, than to blazon, in immortal numbers, the only sure title to the crown he was to wear—THE FREEDOM OF THE PEOPLE OF GREAT BRITAIN? And it is to be assumed, forsooth, in the year 1794, that the unfortunate prisoner before you was a  
abolition, because

<sup>a</sup> See his trial, ant. Vol.

men are preparing at this moment (may my name descend amongst them to the latest posterity!) to do honour to his immortal memory. Pardon me, gentlemen, for this desultory digression.—I must express myself as the current of my mind will carry me.

If we look at the whole of the institution itself, it exactly corresponds with the plan of the duke of Richmond, as expressed in the letters to colonel Sharman, and to the high sheriff of Sussex: this plan they propose to follow, in a public address to the nation, and all their resolutions are framed for its accomplishment; and I desire to know in what they have departed from either, and what they have done which has not been done before, without blame or censure, in the pursuance of the same object. I am not speaking of the libels they may have written, which the law is open to punish, but what part of their conduct has, as applicable to the subject in question, been unprecedented.—I have, at this moment, in my eye, an honourable friend of mine, and a distinguished member of the House of Commons, who, in my own remembrance, I believe in 1780, sat publicly at Guildhall, with many others, some of them magistrates of the city, as a convention of delegates, for the same objects;\* and what is still more in point, just before the convention began to meet at Edinburgh, whose proceedings have been so much relied on, there was a convention regularly assembled, attended by the delegates from all the counties of Scotland, for the express and avowed purpose of altering the constitution of parliament; not by rebellion, but by the same means employed by the prisoner:—the lord chief baron of Scotland sat in the chair, and was assisted by some of the first men in that country, and, amongst others, by an honourable person to whom I am nearly allied, who is at the very head of the bar in Scotland, and most avowedly attached to the law and the constitution.† These gentlemen, whose good intentions never fell into suspicion, had presented a petition for the alteration of election laws, which the House of Commons had rejected, and on the spur of that very rejection they met in a Convention at Edinburgh in 1793; and the style of their first meeting was, “A Convention of Delegates, chosen from the counties of Scotland, for *Altering and Amending the Laws concerning Elections*”—not for considering how they might be best amended—not for petitioning parliament to amend them; but for altering and amending the election laws.—These meetings were regularly published, and I will prove, that their first

resolution, as I have read it to you, was brought up to London, and delivered to the editor of the Morning Chronicle by sir Thomas Dundas, lately created a peer of Great Britain, and paid for by him as a public advertisement. Now, suppose any man had imputed treason or sedition to these honorable persons, what would have been the consequence? They would have been considered as infamous libellers and traducers, and deservedly hooted out of civilized life:—why then are different constructions to be put upon similar transactions?—Why is every thing to be held up as *bonâ fide* when the example is set, and *malâ fide* when it is followed?—Why have I not as good a claim to take credit for honest purpose in the poor man I am defending, against whom not a contumelious expression has been proved, as when we find the same expressions in the mouths of the duke of Richmond or Mr. Burke?—I ask nothing more from this observation, than that a sober judgment may be pronounced from the quality of the acts which can be fairly established; each individual standing responsible only for his own conduct, instead of having our imaginations tainted with cant phrases, and a farrago of writings and speeches, for which the prisoner is not responsible, and for which the authors, if they be criminal, are liable to be brought to justice.

But it will be said, gentlemen, that all the constitutional privileges of the people are conceded; that their existence was never denied or invaded; and that their right to petition and to meet for the expression of their complaints, founded or unfounded, was never called in question; these, it will be said, are the rights of subjects; but that the “rights of man” are what alarms them: every one is considered as a traitor who talks about the “rights of man;” but this bugbear stands upon the same perversion with its fellows.

The rights of man are the foundation of all government, and to secure them is the only reason of men's submitting to be governed;—it shall not be fastened upon the unfortunate prisoner at the bar, nor upon any other man, that because these natural rights were asserted in France, by the destruction of a government which oppressed and subverted them, a process happily effected here by slow and imperceptible improvements, that therefore they can only be so asserted in England, where the government, through a gradation of improvement, is well calculated to protect them. We are, fortunately, not driven in this country to the terrible alternatives which were the unhappy lot of France, because we have had a happier destiny in the forms of a free constitution; this, indeed, is the express language of many of the papers before you, that have been complained of; particularly in one alluded to by the Attorney General, as having been written by a gentleman with whom I am particularly acquainted; and though in that spirited composition there are, perhaps,

3 O

\* Alluding, we believe, to Mr. Fox. Editor of ‘Erskine's Speeches.’

† The late hon. Henry Erskine, Mr. Erskine's brother, who was then Dean of the Faculty of Advocates, at Edinburgh, and who twice held the office of Lord Advocate of Scotland.

some expressions proceeding from warmth which he may not desire me critically to justify, yet I will venture to affirm, from my own personal knowledge, that there is not a man in Court more honestly public-spirited and zealously devoted to the constitution of King, Lords, and Commons, than the honourable gentleman I allude to (Felix Vaughan, esq. barrister at law\*). It is the phrase, therefore, and not the sentiment expressed by it, that can alone give justifiable offence;—it is, it seems, a *new* phrase commencing in revolutions, and never used before in discussing the rights of British subjects, and therefore can only be applied in the sense of those who framed it;—but this is so far from being the truth, that the very phrase sticks in my memory, from the repeated application of it to the rights of subjects, under this and every other establishment, by a gentleman whom you will not suspect of using it in any other sense. The rights of man were considered by Mr. Burke, at the time that the great uproar was made upon a supposed invasion of the East India Company's charter, to be the foundation of, and paramount to all, the laws and ordinances of a state:—the ministry, you may remember, were turned out for Mr. Fox's India Bill, which their opponents termed an attack upon the chartered rights of man, or, in other words, upon the abuses supported by a monopoly in trade. Hear the sentiments of Mr. Burke, when the NATURAL and CHARTERED rights of men are brought into contest. Mr. Burke, in his speech in the House of Commons, expressed himself thus: "The first objection is, that the bill is an attack on the chartered rights of men. As to this objection, I must observe that the phrase of 'the chartered rights of men,' is full of affectation; and very unusual in the discussion of privileges conferred by charters of the present description. But it is not difficult to discover what end that ambiguous mode of expression, so often reiterated, is meant to answer.

"The rights of men, that is to say, the *natural rights of mankind*, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it.—And if these natural rights are farther affirmed and declared by express covenants, clearly defined and secured against chicane, power, and authority, by written instruments and positive engagements, they are in a still better condition; they then partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures an object of such importance. Indeed, this

\* Assistant Counsel to the prisoners: a young man of great abilities and promise in his profession. He died soon afterwards. Editor of 'Erskine's Speeches.' See the note, *antè*, p. 110.

formal recognition, by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding radical principles of government, and even of society itself."\*

The Duke of Richmond also, in his public letter to the High Sheriff of Sussex, rests the rights of the people of England upon the same *horrible and damnable principle of the rights of man*.—Let gentlemen, therefore, take care they do not pull down the very authority which they come here to support;—let them remember, that his Majesty's family was called to the Throne upon the very principle, that the ancient Kings of this country had violated those sacred trusts;—let them recollect too in what the violation was charged to exist;—it was charged by the Bill of Rights to exist in cruel and infamous trials; in the packing of juries; and in disarming the people, whose arms are their unalienable refuge against oppression.—But did the people of England assemble to make this declaration?—No!—because it was unnecessary.—The sense of the people, against a corrupt and scandalous government, dissolved it, by almost the ordinary forms by which the old government itself was administered.—King William sent his writs to those who had sat in the former Parliament: but will any man, therefore, tell me, that that Parliament reorganized the government without the will of the people? and that it was not their consent which entailed on King William a particular inheritance, to be enjoyed under the dominion of the law? Gentlemen, it was the denial of these principles, asserted at the revolution in England, that brought forward the author of the Rights of Man, and stirred up this controversy which has given such alarm to Government:—but for this the literary labours of Mr. Paine had closed.—He asserts it himself in his book, and every body knows it.—It was not the French revolution, but Mr. Burke's *Reflections upon it*, followed up by another work on the same subject, as it regarded things in England, which brought forward Mr. Paine, and which rendered his works so much the object of attention in this country.—Mr. Burke denied positively the very foundation upon which the revolution of 1688 must stand for its support, viz. the right of the people to change their government; and he asserted, in the teeth of His Majesty's title to the Crown, that no such right in the people existed;—this is the true history of the Second Part of the Rights of Man.—The First Part had little more aspect to this country than to Japan;—it asserted the right of the people of France to act as they had acted, but there was little which pointed to it as an example for England.—There had been a despotic authority in France which the people had thrown down, and Mr. Burke seemed to question their right

\* See the New Parliamentary History, Vol. 23, p. 1315.



to do so:—Mr. Paine maintained the contrary in his answer; and having imbibed the principles of republican government, during the American revolution, he mixed with the controversy many coarse and harsh remarks upon monarchy as established, even in England, or in any possible form.—But this was collateral to the great object of his work, which was to maintain the right of the people to choose their government;—this was the right which was questioned, and the assertion of it was most interesting to many who were most strenuously attached to the English government; since men may assert the right of every people to choose their government without seeking to destroy their own. This accounts for many expressions imputed to the unfortunate prisoners, which I have often uttered myself, and shall continue to utter every day of my life, and call upon the spies of government to record them:—I WILL SAY ANY WHERE, WITHOUT FEAR, NAY, I WILL SAY WHERE, WHERE I STAND, THAT AN ATTEMPT TO INTERFERE, BY DESPOTIC COMBINATION AND VIOLENCE, WITH ANY GOVERNMENT WHICH A PEOPLE CHOOSE TO GIVE TO THEMSELVES, WHETHER IT BE GOOD OR EVIL, IS AN OPPRESSION AND SUBVERSION OF THE NATURAL AND UNALIENABLE RIGHTS OF MAN; AND THOUGH THE GOVERNMENT OF THIS COUNTRY SHOULD COUNTENANCE SUCH A SYSTEM, IT WOULD NOT ONLY BE STILL LEGAL FOR ME TO EXPRESS MY DETESTATION OF IT, AS I HERE DELIBERATELY EXPRESS IT, BUT IT WOULD BECOME MY INTEREST AND MY DUTY. FOR, IF COMBINATIONS OF DESPOTISM CAN ACCOMPLISH SUCH A PURPOSE, WHO SHALL TELL ME, WHAT OTHER NATION SHALL NOT BE THE PREY OF THEIR AMBITION?—Upon the very principle of denying to a people the right of governing themselves, how are we to resist the French, should they attempt by violence to fasten their government upon us? Or, what inducement would there be for resistance to preserve laws, which are not, it seems, our own, but which are unalterably imposed upon us?—The very argument strikes, as with a palsy, the arm and vigour of the nation.—I hold dear the privileges I am contending for, not as privileges hostile to the constitution, but as necessary for its preservation; and if the French were to intrude by force upon the government of our own free choice, I should leave these papers, and return to a profession that, perhaps, I better understand.

The next evidence relied on, after the institution of the Corresponding Society, is a letter written to them from Norwich, dated the 11th of November 1791, with the answer, dated the 26th of the same month:—It is asserted, that this correspondence shows, they aimed at nothing less than the total destruction of the monarchy, and that they, therefore veil their intention under covert and ambiguous language.—I think, on the other hand, and I shall continue to think so, as long as I am capable of thought, that it was impossible for words

to convey more clearly the explicit avowal of their original plan for a constitutional reform in the House of Commons. This letter from Norwich, after congratulating the Corresponding Society on its institution, asks several questions arising out of the proceedings of other societies in different parts of the kingdom, which they profess not thoroughly to understand.

The Sheffield people (they observe) seemed at first determined to support the Duke of Richmond's plan only, but that they had afterwards observed a disposition in them to a more moderate plan of reform proposed by the Friends of the People in London; whilst the Manchester people, by addressing Mr. Paine (whom the Norwich people had not addressed) seemed to be intent on republican principles only; they therefore put a question, not at all of distrust, or suspicion, but *bona fide*, if ever there was good faith between men, whether the Corresponding Society meant to be satisfied with the plan of the Duke of Richmond? or, whether it was their private design to rip up monarchy by the roots, and place democracy in its stead? Now hear the answer, from whence it is inferred that *this last is their intention*: they begin their answer with recapitulating the demand of their correspondent, as regularly as a tradesman, who has had an order for goods, recapitulates the order that there may be no ambiguity in the reference or application of the reply, and then they say as to the objects they have in view they refer them to their addresses. "You will thereby see that they mean to disseminate political knowledge, and thereby engage the judicious part of the nation to demand the recovery of their lost rights in ANNUAL Parliaments; the members of these Parliaments owing their election to unbought suffrages."—They then desire them to be careful to avoid all dispute, and say to them, Put monarchy, democracy, and even religion, quite aside; and "Let your endeavours go to increase the numbers of those who desire a full and equal representation of the people, and leave to a Parliament, so chosen, to reform all existing abuses; and if they don't answer, at the year's end you may choose others in their stead." The Attorney General says, this is lamely expressed;—I, on the other hand, say, that it is not only not lamely expressed, but anxiously worded to put an end to dangerous speculations.—Leave all theories undiscussed;—do not perplex yourselves with abstract questions of government;—endeavour practically to get honest representatives, —and if they deceive you—then, what?—bring on a revolution?—No!—Choose others in their stead. They refer also to their address, which lay before their correspondent, which address expresses itself thus: "Laying aside all claim to originality, we claim no other merit than that of reconsidering and verifying what has already been urged in our common cause by the Duke

of Richmond and Mr. Pitt, and their then honest party."

When the language of the letter, which is branded as ambiguous, thus stares them in the face as an undeniable answer to the charge, they then have recourse to the old refuge of *mala fides*; all this they say is but a cover for hidden treason;—but I ask you, Gentlemen, in the name of God, and as fair and honest men, what reason upon earth there is to suppose, that the writers of this letter did not mean what they expressed? Are you to presume in a Court of Justice, and upon a trial for life, that men write with duplicity in their most confidential correspondence, even to those with whom they are confederated?—Let it be recollected also, that if this correspondence was calculated for deception, the deception must have been understood and agreed upon by all parties concerned; for otherwise you have a conspiracy amongst persons who are at cross purposes with one another: consequently the conspiracy, if this be a branch of it, is a conspiracy of thousands and ten thousands, from one end of the kingdom to the other, who are all guilty, if any of the Prisoners are guilty:—upwards of forty thousand persons, upon the lowest calculation, must alike be liable to the pains and penalties of the law, and hold their lives as tenants at will of the Ministers of the Crown.—In whatever aspect, therefore, this prosecution is regarded, new difficulties and new uncertainties and terrors surround it.

The next thing in order which we have to look at, is the Convention at Edinburgh.—It appears that a letter had been written by Mr. Skirving, who was connected with reformers in Scotland proceeding avowedly upon the duke of Richmond's plan, proposing that there should be a convention from the societies assembled at Edinburgh:—now you will recollect, in the opening, that the attorney general considered all the great original sin of this conspiracy and treason to have originated with the societies in London—that the country societies were only tools in their hands, and that the Edinburgh convention was the commencement of their projects; and yet it plainly appears that this convention originated from neither of the London societies, but had its beginning at Edinburgh, where, just before, a convention had been sitting for the reform in parliament, attended by the principal persons in Scotland; and surely, without adverting to the nationality so peculiar to the people of that country, it is not at all suspicious, that, since they were to hold a meeting for similar objects, they should make use of the same style for their association; and that their deputies should be called delegates, when delegates had attended the other convention from all the counties, and whom they were every day looking at in their streets, in the course of the very same year that Skirving wrote his letter on the subject. *The views of the Corresponding Society, as*

they regarded this convention, and consequently the views of the prisoner, must be collected from the written instructions to the delegates, unless they can be falsified by matter which is collateral.—If I constitute an agent, I am bound by what he does, but always with this limitation, for what he does *within the scope of his agency*:—If I constitute an agent to buy horses for me, and he commits high treason, it will not, I hope, be argued that I am to be hanged.—If I constitute an agent for any business that can be stated, and he goes beyond his instructions, he must answer for himself beyond their limits; for beyond them he is not my representative.—The acts done, therefore, at the Scotch convention, whatever may be their quality, are evidence to show, that, in point of fact, a certain number of people got together, and did any thing you choose to call illegal; but, as far as it concerns me, if I am not present, you are limited by my instructions and have not advanced a single step upon your journey to convict me: the instructions to Skirving have been read, and speak for themselves; they are strictly legal, and pursue the avowed object of the society; and it will be for the solicitor general to point out, in his reply, any counter or secret instructions, or any collateral conduct, contradictory of the good faith with which they were written. The instructions are in these words—"The delegates are instructed, on the part of this society, to assist in bringing forward and supporting any constitutional measure for procuring a real representation of the Commons of Great Britain." What do you say, gentlemen, to this language?—how are men to express themselves who desire a constitutional reform? The object and the mode of effecting it were equally legal—this is most obvious from the conduct of the parliament of Ireland, acting under directions from England; they passed the convention bill, and made it only a misdemeanor, knowing that, by the law as it stood, it was no misdemeanor at all.—Whether this statement may meet with the approbation of others, I care not; I know the fact to be so, and I maintain that you cannot prove upon the convention which met at Edinburgh, and which is charged to-day with high treason, one thousandth part of what, at last, worked up government in Ireland to the pitch of voting it a misdemeanor.

Gentlemen, I am not vindicating any thing that can promote disorder in the country, but I am maintaining that the worst possible disorder that can fall upon a country is, when subjects are deprived of the sanction of clear and unambiguous laws.—If wrong is committed, let punishment follow according to the measure of that wrong:—if men are turbulent, let them be visited by the laws according to the measure of their turbulency:—if they write libels upon government, let them be punished according to the quality of those libels: but



you must not, and will not, because the stability of the monarchy is an important concern to the nation, confound the nature and distinctions of crimes, and pronounce that the life of the sovereign has been invaded, because the privileges of the people have been, perhaps, irregularly and hotly asserted:—you will not, to give security to government, repeal the most sacred laws instituted for our protection, and which are, indeed, the only consideration for our submitting at all to government.—If the plain letter of the statute of Edward 3rd applies to the conduct of the prisoners, let it in God's name be applied;—but let neither their conduct, nor the law that is to judge it, be tortured by construction; nor suffer the transaction, from whence you are to form a dispassionate conclusion of intention, to be magnified by scandalous epithets, nor overwhelmed in an undistinguishable mass of matter, in which you may be lost and bewildered, having missed the only parts which could have furnished a clue to a just or rational judgment.

Gentlemen, this religious regard for the liberty of the subject, against constructive treason, is well illustrated by Dr. Johnson, the great author of our English Dictionary, a man remarkable for his love of order, and for high principles of government, but who had the wisdom to know that the great end of government, in all its forms, is the security of liberty and life under the law.—This man, of masculine mind, though disgusted at the disorder which lord George Gordon created, felt a triumph in his acquittal,\* and exclaimed, as we learn from Mr. Boswell, "I hate lord G. Gordon, but I am glad he was not convicted of this constructive treason; for though I hate him, I love my country and myself."—This extraordinary man, no doubt, remembered with lord Hale, that when the law is broken down, injustice knows no bounds, but runs as far as the wit and invention of accusers, or the detestation of persons accused, will carry it.—You will pardon this almost perpetual recurrence to these considerations; but the present is a season when I have a right to call upon you by every thing sacred in humanity and justice;—by every principle which ought to influence the heart of man, to consider the situation in which I stand before you.—I stand here for a poor, unknown, unprotected individual, charged with a design to subvert the government of the country, and the dearest rights of its inhabitants;—a charge which has collected against him a force sufficient to crush to pieces any private man;—the whole weight of the crown presses upon him; parliament has been sitting upon *ex-parte* evidence for months together; and rank and property are associated, from one end of the kingdom to the other, to avert the supposed consequences of the treason.†—I am making no complaint

of this; but surely it is an awful summons to impartial attention;—surely it excuses me for so often calling upon your integrity and firmness to do equal justice between the crown so supported, and an unhappy prisoner so unprotected.

Gentlemen, I declare that I am utterly astonished, on looking at the clock, to find how long I have been speaking; and that, agitated and distressed as I am, I have yet strength enough left for the remainder of my duty;—at every peril of my health it shall be exerted; for although, if this cause should miscarry, I know I shall have justice done me for the honesty of my intentions; yet what is that to the public and posterity?—What is it to them, when, if upon this evidence there can stand a conviction for high treason, it is plain that no man can be said to have a life which is his own?—For how can he possibly know by what engines it may be snared, or from what unknown sources it may be attacked and overpowered?—Such a monstrous precedent would be as ruinous to the king as to his subjects.—We are in a crisis of our affairs; which putting justice out of the question, calls in sound policy for the greatest prudence and moderation.—At a time when other nations are disposed to subvert their establishments, let it be our wisdom to make the subject feel the practical benefits of our *own*: let us seek to bring good out of evil:—the distracted inhabitants of the world will fly to us for sanctuary, driven out of their countries from the dreadful consequences of not attending to reasonable reforms in government; victims to the folly of suffering corruptions to continue, till the whole fabric of society is dissolved and tumbles into ruin. Landing upon our shores, they will feel the blessing of security, and they will discover in what it consists; they will read this trial, and their hearts will palpitate at your decision:—they will say to one another, and their voices will reach to the ends of the earth; may the constitution of England endure for ever!—the sacred and yet remaining sanctuary for the oppressed:—here, and here only, the lot of man is cast in security:—what though authority, established for the ends of justice, may lift itself up against it;—what though the House of Commons itself should make an *ex-parte* declaration of guilt;—what though every species of art should be employed to entangle the opinions of the people, which in other countries would be inevitable destruction:—yet in England, in enlightened England, all this will not pluck a hair from the head of innocence;—the jury will still look steadfastly to the law, as the great polar star, to direct them in their course:—as prudent men they will set no example of disorder, nor pronounce a verdict of censure on authority, or of approbation or disapprobation beyond their judicial pro-

\* See trial of lord George Gordon *ant* 2 Vol. 21, page 651.

† In support of this indictment the evi-

dence for the crown was divided into two distinct branches, viz. to establish first, that such a conspiracy existed, and secondly, to



vince:—but, on the other hand, they will make no political sacrifice, but deliver a plain, honest man, from the toils of injustice.—When your verdict is pronounced, this will be the judgment of the world;—and if any amongst ourselves are alienated in their affections to government, nothing will be so likely to reclaim them:—they will say—Whatever we have lost of our control in parliament, we have yet a sheet-anchor remaining to hold the vessel of the state amidst contending storms:—we have still, thank God, a sound administration of justice secured to us, in the independence of the judges, in the rights of enlightened juries, and in the integrity of the bar;—ready at all times, and upon every possible occasion, whatever may be the consequences to themselves, to stand forward in defence of the meanest man in England, when brought for judgment before the laws of the country.

prove that the prisoners were parties to it.—This course of proceeding had been sanctioned by the opinions of the judges upon other trials, but the adoption of it upon this occasion, however legal, undoubtedly exposed the prisoners to great peril of prejudgment, because almost the whole of the evidence given by the crown against them had been collected by both Houses of Parliament just before the trial, and printed by their authority; and a statute [34 Geo. 3, c. 54.] had even been passed, declaring that the treacherous conspiracy which constituted the first and very important branch of the evidence, did in fact exist within the kingdom.—We say a very important branch of the evidence, because undoubtedly, if the jury had considered that the evidence supported the truth of the preamble to the act of parliament, the prisoners must have been in a manner without a defence. Authority was also given to detain, without bail, persons already in custody, on suspicion of being engaged in the above conspiracy, or who should be thereafter committed, on that account.

“With regard to this act of parliament, it is impossible, on the one hand, to deny the constitutional competency of parliament to declare the existence of a dangerous and extended conspiracy, endangering not only the safety, but the very existence of the state.—On the other hand, the persons who may become obnoxious to suspicion, and be subjected to public prosecution in consequence of such a legislative proceeding, come to a trial under seemingly insurmountable disadvantages.

In the very case before us, the two Houses of Parliament had collected and arranged the greater part of the written evidence afterwards produced by the crown against the prisoners, and in the preamble of the act had given it the character of a detestable conspiracy, to subvert the monarchy, although, as has been already stated, the inquiry of the jury was to be divided into two branches—First, whether the evidence, great part of which had been so

To return to this Scotch Convention.—Their papers were all seized by government.—What their proceedings were they best know: we can only see what parts they choose to show us: but, from what we have seen, does any man seriously believe, that this meeting at Edinburgh meant to assume and to maintain by force all the functions and authorities of the state?—Is the thing within the compass of human belief?—If a man were offered a dukedom, and twenty thousand pounds a year, for trying to believe it, he might say he believed it, as what will not man say for gold and honours? but he never in fact could believe that this Edinburgh meeting was a parliament for Great Britain:—how indeed could he, from the proceedings of a few peaceable, unarmed men, discussing, in a constitutional manner, the means of obtaining a reform in

collected and arranged in parliament and published, substantiated the declaration made in the preamble of the bill, of the existence of such a conspiracy to subvert the government: and secondly, whether the prisoners had any and what share in it.—Now it is most obvious, that if, in deference to the judgment of parliament, the first part of this division had been found by the jury, and the law of high treason, as stated by the counsel for the crown, had been adopted, the prisoners could scarcely have had any defence, as they then must have been taken, upon the whole of the evidence, to have been privy to proceedings throughout the whole kingdom, directed to the subversion of the monarchy, and destruction of the king.

“All that can be said upon such a case is, first, that dependence must be had upon the sacred trust of the legislature, not without urgent necessity to adopt such a proceeding; and carefully to consider the fair result of the evidence, when made the foundation of an act of parliament: and secondly, that the British constitution provides for the safety of all who have the happiness to live under its protection, by giving to twelve men, to be taken from the mass of the people, the privilege and the duty to sit in judgment upon all that the authority of parliament may have decided to be the *fact*, and all that the learning of the judges may consider to be the application of the *law*.

“In that respect, whatever may be the merits of this case, and whatever amidst the variety of judgments in a free country, may be the prevailing opinion concerning it, the trial by jury must ever be dear to Englishmen.—The verdict of acquittal, instead of giving encouragement to whatever spirit of sedition might have existed at that period, produced an universal spirit of content and confidence in the people. Nothing indeed could more properly excite such sentiments, than so memorable a proof of safety under the laws.”—*Subject of the trial of Thomas Hardy, Erskine's Speeches Vol. 3, p. 55, 2nd ed.*

parliament; and who, to maintain the club, or whatever you choose to call it, collected a little money from people who were well disposed to the cause; a few shillings one day, and perhaps as many pence another?—I think as far as I could reckon it up, when the report from this great committee of supply was read to you, I counted that there had been raised, in the first session of this parliament, fifteen pounds, from which indeed you must deduct two bad shillings, which are literally noticed in the account.—Is it to be endured, gentlemen, that men should gravely say, that this body assumed to itself the offices of parliament?—that a few harmless people, who sat, as they profess, to obtain a full representation of the people, were themselves, even in their own imaginations, the complete representation which they sought for?—Why should they sit from day to day to consider how they might obtain what they had already got?—If their object was an universal representation of the whole people, how is it credible they could suppose that universal representation to exist in themselves—in the representatives of a few societies instituted to obtain it for the country at large?—If they were themselves the nation, why should the language of every resolution be, that reason ought to be their grand engine for the accomplishment of their object, and should be directed to convince the nation to speak to parliament in a voice that must be heard? The proposition, therefore, is too gross to cram down the throats of the English people, and this is the prisoner's security.—Here again he feels the advantage of our free administration of justice: this proposition on which so much depends, is not to be reasoned upon on parchment, to be delivered privately to magistrates for private judgment: no—he has the privilege of appealing aloud, as he now appeals by me, to an enlightened assembly full of eyes, and ears, and intelligence where speaking to a jury is, in a manner, speaking to a nation at large, and flying for sanctuary to its universal justice.

Gentlemen, the very work of Mr. Paine, under the banners of which this supposed rebellion was set on foot, refutes the charge it is brought forward to support: for Mr. Paine, in his preface, and throughout his whole book, reprobates the use of force against the most evil governments; the contrary was never imputed to him.—If his book had been written in pursuance of the design of force and rebellion, with which it is now sought to be connected, he would, like the prisoners, have been charged with an overt act of high treason; but such a proceeding was never thought of.—Mr. Paine was indicted for a misdemeanor,\* and the misdemeanor was argued to consist not in the falsehood that a nation has no right to choose or alter its government, but in seditiously exciting the nation, without cause,

to exercise that right.—A learned lord (lord chief baron Macdonald), now on this bench, addressed the jury as attorney-general upon this principle: his language was this:—The question is not, what the people have a right to do, for the people are, undoubtedly, the foundation and origin of all government; but the charge is, for seditiously calling upon the people, without cause or reason, to exercise a right which would be sedition, supposing the right to be in them: for though the people might have a right to do the thing suggested, and though they are not excited to the doing it by force and rebellion, yet, as the suggestion goes to unsettle the state, the propagation of such doctrines is seditious. There is no other way, undoubtedly, of describing that charge. I am not here entering into the application of it to Mr. Paine, whose counsel I was, and who has been tried already. To say that the people have a right to change their government, is indeed a truism; every body knows it, and they exercised the right, otherwise the king could not have had his establishment amongst us. If, therefore, I stir up individuals to oppose by force the general will, seated in the government, it may be treason; but to induce changes in a government, by exposing to a whole nation its errors and imperfections, can have no bearing upon such an offence:—the utmost which can be made of it is a misdemeanor, and that too depending wholly upon the judgment which the jury may form of the intention of the writer.—The Courts, for a long time, indeed, assumed to themselves the province of deciding upon this intention, as a matter of law, conclusively inferring it from the act of publication.\* I say the Courts *assumed* it, though it was not the doctrine of lord Mansfield, but handed down to him from the precedents of judges before his time: but even in that case, though the publication was the crime, not, as in this case the intention, and though the quality of the thing charged, when not rebutted by evidence for the defendant, had so long been considered to be a legal inference, yet the legislature, to support the province of the jury, and in tenderness for liberty, has lately altered the law upon this important subject. If, therefore, we were not assembled, as we are, to consider of the existence of high treason against the king's life, but only of a misdemeanor for seditiously disturbing his title and establishment, by the proceedings for a reform in parliament, I should think the Crown, upon the very principle which, under the libel law, must now govern such a trial, quite as distant from its mark; because, in my opinion, there is no way by which his majesty's title can more firmly be secured, or by which (above all, in our times) its permanency can be better established, than by promoting a more full and equal representation of the people, by peace-

\* See the trial of Thomas Paine, *antè*, Vol. 22, p. 357.

\* See the case of the Dean of St. Asaph, Vol. 21, p. 847 of this Collection.

able means; and by what other means has it been sought, in this instance, to be promoted?

Gentlemen, when the members of this convention were seized, did they attempt resistance?—Did they insist upon their privileges as subjects under the laws, or as a parliament enacting laws for others?—If they had said or done any thing to give colour to such an idea, there needed no spies to convict them; the crown could have given ample indemnity for evidence from amongst themselves: the societies consisted of thousands and thousands of persons, some of whom, upon any calculation of human nature, might have been produced: the delegates, who attended the meetings, could not be supposed to have met, with a different intention from those who sent them; and, if the answer to that is, that the constituents are involved in the guilt of their representatives, we get back to the monstrous position from which I observed you before to shrink back, with visible horror, when I stated it; namely, the involving in the fate and consequence of this single trial every man, who corresponded with these societies, or who, as a member of societies in any part of the kingdom, consented to the meeting which was assembled, or which was in prospect:—but, I thank God, I have nothing to fear from those hy-dras, when I see before me such just and honourable men to hold the balance of justice.

Gentlemen, the dissolution of this parliament speaks as strong a language as its conduct when sitting.—How was it dissolved? When the magistrates entered, Mr. Skirving was in the chair, which he refused to leave:—he considered and asserted his conduct to be legal, and therefore informed the magistrate he must exercise his authority, that the dis-persion might appear to be involuntary, and that the subject, disturbed in his rights,

them the victims of sentences which many would consider as equivalent to, if not worse than, judgment of treason: sentences which, at all events had never existed before, and such as, I believe, never will again with impunity. —But since I am on the subject of *intention*, I shall conduct myself with the same moderation which I have been prescribing; I will cast no aspersions, but shall content myself with lamenting that these judgments were productive of consequences, which rarely follow from authority discreetly exercised. How easy is it then to dispose of as much of the evidence as consumed half a day in the anathemas against the Scotch Judges! It appears that they came to various resolutions concerning them: some good, some bad, and all of them irregular. Amongst others they compare them to Jeffries, and wish that they, who imitate his example, may meet his fate.—What then?—Irreverend expressions against Judges are not acts of high treason!—If they had assembled round the Court of Justiciary and hanged them in the execution of their offices, it would not have been treason within the statute.—I am no advocate for disrespect to Judges, and think that it is dangerous to the public order; but putting aside the insult upon the Judges now in authority, the reprobation of Jeffries is no libel, but an awful and useful memento to wicked men. Lord Chief Justice Jeffries denied the privilege of English law to an innocent man. He refused it to sir Thomas Armstrong,\* who in vain pleaded, in bar of his outlawry, that he was out of the realm when he was exacted—(an objection so clear, that it was lately taken for granted, in the case of Mr. Purefoy)—The daughter of this unfortunate person, a lady of honour and quality, came publicly into court



the writ of error,—and the executors of Jefferson were commanded to make compensation to the widow and the daughter of the deceased. These are great monuments of justice;—and, although I by no means approve of harsh expressions against authority, which tend to weaken the holdings of society, yet let us not go beyond the mark in our restraints nor suppose that men are dangerously disaffected to the government, because they feel a sort of pride and exultation in events, which constitute the dignity and glory of their country.

Gentlemen, this resentment against the proceedings of the Courts in Scotland, was not confined to those who were the objects of them; it was not confined even to the friends of a Reform in Parliament—a benevolent public, in both parts of the island, joined them in the complaint; and a gentleman of great moderation, and a most inveterate enemy to parliamentary reform, as thinking it not an improvement of the government, but nevertheless a lover of his country and its insulted justice, made the convictions of the delegates the subject of a public inquiry:—I speak of my friend Mr. William Adam,\* who brought these judgments of the Scotch Judges before the House of Commons—arraigned them as contrary to law, and proposed to reverse them by the authority of Parliament.† Let it not then be matter of wonder, that these poor men, who were the immediate victims of this injustice, and who saw their brethren expelled from their country by an unprecedented and questionable judgment, should feel like men on the subject, and express themselves as they felt.

Gentlemen, amidst the various distresses and embarrassments which attend my present situation, it is a great consolation that I have marked from the beginning, your vigilant attention and your capacity to understand; it is, therefore, with the utmost confidence that I ask you a few plain questions, arising out of the whole of these Scotch proceedings.—In the first place, then, do you believe it to be possible, that, if these men had really projected the Convention as a traitorous usurpation of the authorities of Parliament, they would have invited the Friends of the People, in Frith-street, to assist them, when they knew that this Society was determined not to seek the reform of the constitution, but by means that were constitutional, and from whom they could neither hope for support nor concealment of evil purposes?—I ask you

next, if their objects had been traitorous, would they have given them, without disguise or colour, to the public and to the government, in every common newspaper? and yet it is so far from being a charge against them, that they concealed their objects by hypocrisy or guarded conduct, that I have been driven to admit the justice of the complaint against them, for unnecessary inflammation and exaggeration.—I ask you farther, whether if the proceedings, thus published and exaggerated, had appeared to Government, who knew every thing belonging to them, in the light they represent them to you *to-day*, they could possibly have slept over them with such complete indifference and silence? For it is notorious, that after this Convention had been held at Edinburgh; after, in short, every thing had been said, written, and transacted, on which I am now commenting, and after Mr. Paine's book had been for above a year in universal circulation,—ay, up to the very day when Mr. Grey gave notice, in the House of Commons, of the intention of the Friends of the People for a reform in Parliament, there was not even a single indictment on the file for a misdemeanor; but, from that moment, when it was seen that the cause was not beat down or abandoned, the proclamation made its appearance, and all the proceedings that followed had their birth.—I ask you, lastly, Gentlemen, whether it be in human nature, that a few unprotected men, conscious in their own minds, that they had been engaged and detected in a detestable rebellion to cut off the king, to destroy the administration of justice, and to subvert the whole fabric of the government, should turn round upon their country, whose ruin they had projected, and whose most obvious justice attached on them, complaining, forsooth, that their delegates, taken by magistrates, in the very act of high treason, had been harshly and illegally interrupted in a meritorious proceeding? The history of mankind never furnished an instance, nor ever will, of such extravagant, preposterous, and unnatural conduct! No, no, Gentlemen; all their hot blood was owing to their firm persuasion, dictated by conscious innocence, that the conduct of their delegates had been legal, and might be vindicated against the magistrates who obstructed them:—in that they might be mistaken;—I am not arguing that point at present: if they are hereafter indicted for a misdemeanor, and I am Counsel in that cause, I will then tell you what I think of it:—sufficient for the day is the good or evil of it,—it is sufficient, for the present one, that the legality or illegality of the business has no relation to the crime that is imputed to the Prisoner.

The next matter that is alleged against the authors of the Scotch Convention, and the societies which supported it, is, their having sent addresses of friendship to the convention of France. These addresses are considered to be a decisive proof of republican combination,

\* He afterwards succeeded lord Erskine in the office of Chancellor of the Duchy of Cornwall, and is now (A. D. 1817) Lord Chief Commissioner of the Jury Court of Scotland, a Baron of the Court of Exchequer of Scotland, and a member of his Majesty's most honourable Privy Council.

† See the Debate on Mr. Adam's motion in the New Parl. Hist. Vol. 30, p. 1486.



verging closely in themselves upon an overt act of treason.—Gentlemen, if the dates of these addresses are attended to, which come no lower down than November 1792, we have only to lament, that they are but the acts of private subjects, and that they were not sanctioned by the state itself.—The French nation, about that period, under their new constitution, or under their new anarchy, call it which you will, were nevertheless most anxiously desirous of maintaining peace with this country.—But the king was advised to withdraw his ambassador from France, upon the approaching catastrophe of its most unfortunate prince;—an event which, however to be deplored, was no justifiable cause of offence to Great Britain.—France desired nothing but the regeneration of her own government; and if she mistook the road to her prosperity, what was that to us?—But it was alleged against her in parliament, that she had introduced spies amongst us, and held correspondence with disaffected persons, for the destruction of our constitution; this was the charge of our minister, and it was, therefore, held to be just and necessary, for the safety of the country, to hold France at arm's length, and to avoid the very contagion of contact with her at the risk of war.—But, gentlemen, this charge against France was thought by many, to be supported by no better proofs than those against the prisoner.—In the public correspondence of the ambassador from the French king, and upon his death, as minister from the convention, with his majesty's secretary of state, documents which lie upon the table of the House of Commons, and which may be made evidence in the cause, the executive council repelled with indignation all the imputations, which to this very hour are held out as the vindications of quarrel. "If there be such persons in England," says monsieur Chauvelin—"has not England laws to punish them?—France disavows them—such men are not Frenchmen."—The same correspondence conveys the most solemn assurances of friendship down to the very end of the year 1792—a period subsequent to all the correspondence and addresses complained of.—Whether these assurances were faithful or otherwise,—whether it would have been prudent to have depended on them or otherwise,—whether the war was advisable or unadvisable,—are questions over which we have no jurisdiction;—I only desire to bring to your recollection, that a man may be a friend to the rights of humanity and to the imprescriptible rights of social man, which is now a term of derision and contempt, that he may feel to the very soul for a nation beset by the sword of despots, and yet be a lover of his own country and its constitution.

Gentlemen, the same celebrated person, of whom I have had occasion to speak so frequently, is the best and brightest illustration of this truth. Mr. Burke, indeed, went a great deal farther than requires to be pressed

into the present argument; for he maintained the cause of justice and of truth, against all the perverted authority and rash violence of his country, and expressed the feelings of a christian and a patriot in the very heat of the American war; boldly holding forth our victories as defeats; and our successes as calamities and disgraces. "It is not instantly," said Mr. Burke, "that I can be brought to rejoice, when I hear of the slaughter and captivity of long lists of those names which have been familiar to my ears from my infancy, and to rejoice that they have fallen under the sword of strangers, whose barbarous appellations I scarcely know how to pronounce. The glory acquired at the *White Plains* by colonel *Raille*, has no charms for me; and I fairly acknowledge, that I have not yet learned to delight in finding *Fort Kniphausen* in the heart of the British dominions."\* If this had been said or written by Mr. Yorke at Sheffield, or by any other member of these societies, heated with wine at the *Globe-tavern*, it would have been trumpeted forth as decisive evidence of a rebellious spirit, rejoicing in the downfall of his country; yet the great author from whose writings I have borrowed, approved himself to be the friend of this nation at that calamitous crisis, and had it pleased God to open the understandings of our rulers, his wisdom might have averted the storms that are now thickening around us. We must not, therefore, be too severe in our strictures upon the opinions and feelings of men as they regard such mighty public questions.—The interests of a nation may often be one thing, and the interests of its government another; but the interest of those who hold government for the hour, is at all times different from either. At the time many of the papers before you were circulated on the subject of the war with France, many of the best and wisest men in this kingdom began to be driven by our situation to these melancholy reflections; and thousands of persons, the most firmly attached to the principles of our constitution, and who never were members of any of these societies, considered, and still consider, Great Britain as the aggressor against France; they considered, and still consider, that she had a right to choose a government for herself, and that it was contrary to the first principles of justice, and, if possible, still more repugnant to the genius of our own free constitution, to combine with despots for her destruction: and who knows but that the external pressure upon France may have been the cause of that unheard-of state of society which we complain of?—who knows, but that, driven as she has been to exertions beyond the ordinary vigour of a nation, it has not been the parent of that unnatural and giant strength which threatens the authors of it with ruin.

\* *Letter to the Sheriffs of the City of London, on the Affairs of America*, Burke, 154, 8vo, ed 1801.



These are melancholy considerations, but they may reasonably, and at all events, be lawfully entertained.—We owe obedience to government in our actions, but surely our opinions are free.

Gentlemen, pursuing the order of time, we are arrived, at length, at the proposition to hold another convention, which, with the supposed support of it by force, are the only overt acts of high treason charged upon this record.—For, strange as it may appear, there is no charge whatever before you of any one of those acts or writings, the evidence of which consumed so many days in reading, and which has already nearly consumed my strength in only passing them in review before you.—If every line and letter of all the writings I have been commenting upon were admitted to be traitorous machinations, and if the convention in Scotland was an open rebellion, it is conceded to be foreign to the present purpose, unless as such criminality in them might show the views and objects of the persons engaged in them:—on that principle only the Court has over and over again decided the evidence of them to be admissible; and on the same principle I have illustrated them in their order as they happened, that I might lead the prisoner in your view up to the very point and moment when the treason is supposed to have burst forth into the overt act for which he is arraigned before you.

The transaction respecting this second convention, which constitutes the principal, or more properly the only overt act in the indictment, lies in the narrowest compass, and is clouded with no ambiguity.—I admit freely every act which is imputed to the prisoner, and listen not so much with fear as with curiosity and wonder, to the treason sought to be connected with it.

You will recollect that the first motion towards the holding of a second convention, originated in a letter to the prisoner from a country correspondent, in which the legality of the former was vindicated, and its dispersion lamented:—this letter was answered on the 27th of March 1794, and was read to you in the crown's evidence in these words:

“March 27, 1794.

“Citizen;—I am directed by the London Corresponding Society to transmit the following Resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require.

“The London Corresponding Society conceives that the moment is arrived, when a full and explicit declaration is necessary from all the friends of freedom—whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished

on our parts as the treachery of others in the same glorious cause is notorious. The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies to obtain a fair representation of the PEOPLE—whether they concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labour, and which can only be effectually removed by a full and fair representation of the people of Great Britain. The London Corresponding Society cannot but remind their friends that the present crisis demands all the prudence, unanimity, and vigour, that may or can be exerted by MEN and Britons; nor do they doubt but that manly firmness and consistency will finally, and they believe shortly, terminate in the full accomplishment of all their wishes.—I am, fellow citizen (in my humble measure), a friend to the rights of man.

(Signed) “T. HARDY, Secretary.”

They then resolve that there is no security for the continuance of any right but in equality of laws; not in equality of property, the ridiculous hugbear by which you are to be frightened into injustice:—on the contrary, throughout every part of the proceedings, and most emphatically in Mr. Yorke's speech, so much relied on, the beneficial subordinations of society, the security of property, and the prosperity of the landed and commercial interests, are held forth as the very objects to be attained by the reform in the representation which they sought for.

In examining this first moving towards a second convention, the first thing to be considered is, what reason there is, from the letter I have just read to you, or from any thing that appears to have led to it, to suppose that a different sort of convention was projected from that which had been before assembled and dispersed.—The letter says another British Convention; and it describes the same objects as the first—compare all the papers for the calling this second convention with those for assembling the first, and you will find no difference, except that they mixed with them extraneous and libellous matter, arising obviously from the irritation produced by the sailing of the transports with their brethren condemned to exile. These papers have already been considered, and separated, as they ought to be, from the charge.

I will now lay before you all the remaining operations of this formidable conspiracy up to the prisoner's imprisonment in the Tower. Mr. Hardy having received the letter just adverted to, regarding a second convention, the Corresponding Society wrote the letter of the 27th of March, and which was found in his hand-writing, and is published in the first Report, page 11. This letter, enclosing the



Resolutions they had come to upon the subject, was considered by the Constitutional Society on the next day, the 28th of March, the ordinary day for their meeting, when they sent an answer to the Corresponding Society, informing them that they had received their communication, that they heartily concurred with them in the objects they had in view, and invited them to send a delegation of their members to confer with them on the subject.

Now, what were the objects they concurred in, and what was to be the subject of conference between the societies by their delegates? Look at the letter, which distinctly expresses its objects, and the means by which they sought to effect them:—had these poor men (too numerous to meet all together, and therefore renewing the cause of Parliamentary Reform by delegation from the societies) any reason to suppose, that they were involving themselves in the pains of treason, and that they were compassing the King's death, when they were redeeming (as they thought) his authority from probable downfall and ruin? Had treason been imputed to the delegates before?—Had the imagining the death of the King ever been suspected by any body?—Or when they were prosecuted for misdemeanors, was the prosecution considered as an indulgence conferred upon men whose lives had been forfeited?—And is it to be endured, then, in this free land, made free too by the virtue of our forefathers, who placed the King upon his throne to maintain this freedom, that forty or fifty thousand people, in the different parts of the kingdom, assembling in their little societies to spread useful knowledge, and to diffuse the principles of liberty, which the more widely they are spread, the surer is the condition of our free government, are in a moment, without warning, without

heard so much, and no meeting was held on that day;—the first Thursday was the 17th of April, but there was no meeting;—the 21st of April was the second Monday, but there was still no meeting;—the 24th of April was the second Thursday when the five of the Corresponding Society attended, but nobody coming to meet them from the other, nothing of course was transacted;—on Monday, the 28th of April, three weeks after their first appointment, this bloody and impatient band of conspirators, seeing that a Convention Bill was in projection, and that Hessians were landing on our coasts, at last assembled themselves;—and now we come to the point of action.—Gentlemen, they met;—they shook hands with each other;—they talked over the news and the pleasures of the day;—they wished one another a good evening, and retired to their homes:—it is in vain to hide it, they certainly did all these things.—The same alarming scene was repeated on the three following days of meeting, and on Monday, May the 12th, would, but for the vigilance of Government, have probably again taken place:—but on that day Mr. Hardy was arrested, his papers seized, and the conspiracy which pervaded this devoted country was dragged into the face of day. To be serious, gentlemen, you have LITERALLY the whole of it before you in the meetings I have just stated; in which you find ten gentlemen, appointed by two peaceable societies, conversing upon the subject of a constitutional reform in parliament, publishing the result of their deliberations, without any other arms than one supper-knife; which, when I come to the subject of arms, I will, in form, lay before you.—Yet for this, and for this alone, you are asked to devote the prisoner before you, and his unfortunate associates, to the pains and penalties of death, and not to the other

larly attended, and collected regular journals of their proceedings; yet when the first Report was finished, and the Habeas Corpus Act suspended upon the foundation of the facts contained in it, there was not to be found, from one end of it to the other, even the insinuation of arms; I believe that this circumstance made a great impression upon all the thinking dispassionate part of the public, and that the materials of the first Report were thought to furnish but a slender argument to support such a total eclipse of liberty. No wonder, then, that the discovery of a pike in the interval between the two Reports, should have been highly estimated—I mean no reflections upon Government, and only state the matter, as a man of great wit very publicly reported it;—he said that the discoverer, when he first beheld the long-looking for pike, was transported beyond himself with enthusiasm and delight, and that he hung over the rusty instrument with all the raptures of a fond mother, who embraces her first-born infant, “*and thanks her God for all her travail past.*”

In consequence of this discovery, whoever might have the merit of it, and whatever the discoverer might have felt upon it, persons were sent by Government (and properly sent) into all corners of the kingdom to investigate the extent of the mischief; the fruit of this inquiry has been laid before you, and I pledge myself to sum up the evidence which you have had upon the subject, not by parts, or by general observations, but in the same manner as the Court itself must sum it up to you, when it lays the whole body of the proof with fidelity before you.—Notwithstanding all the declamations upon French anarchy, I think I may safely assert, that it has been distinctly proved, by the evidence, that the Sheffield people were for universal representation in a British House of Commons. This appears to have been the general sentiment, with the exception of one witness, whose testimony makes the truth and *bona fides* of the sentiments far more striking; the witness I allude to (George Widdison), whose evidence I shall state in its place, seems to be a plain, blunt, honest man, and by-the-by, which must never be forgotten of any of them, the Crown's witness—I am not interested in the veracity of any of them, for (as I have frequently adverted to) the Crown must take them for better for worse;—it must support each witness, and the whole body of its evidence throughout.—If you do not believe the whole of what is proved by a witness, what confidence can you have in part of it, or what part can you select to confide in?—If you are deceived in part,—who shall measure the boundaries of the deception?—This man says he was at first for universal suffrage; Mr. Yorke had persuaded him, from all the books, that it was the best; but that he afterwards saw reason to think otherwise, and was not for going the length of the Duke of Richmond;

but that all the other Sheffield people were for the Duke's plan; a fact confirmed by the cross-examination of every one of the witnesses.—You have, therefore, positively and distinctly, upon the universal authority of the evidence of the Crown, the people of Sheffield, who are charged as at the head of a republican conspiracy, proved to be associated on the very principles which, at different times, have distinguished the most eminent persons in this kingdom; and the charge made upon them, with regard to arms, is cleared up by the same universal testimony.

You recollect that, at a meeting held upon the Castle-hill, there were two parties in the country, and it is material to attend to what these two parties were.—In consequence of the King's proclamation, a great number of honourable, zealous persons, who had been led by a thousand artifices to believe, that there was a just cause of alarm in the country, took very extraordinary steps for support of the magistracy.—The publicans were directed not to entertain persons who were friendly to a reform of Parliament; and alarms of change and revolution pervaded the country, which became greater and greater, as our ears were hourly assailed with the successive calamities of France.—Others saw things in an opposite light, and considered that these calamities were made the pretext for extinguishing British liberty;—heart-burnings arose between the two parties; and some, I am afraid a great many, wickedly or ignorantly interposed in a quarrel which zeal had begun.—The societies were disturbed in their meetings, and even the private dwellings of many of their members were illegally violated.—It appears by the very evidence for the Crown, by which the cause must stand or fall, that many of the friends of reform were daily insulted,—their houses threatened to be pulled down, and their peaceable meetings beset by pretended magistrates, without the process of the law.—These proceedings naturally suggested the propriety of having arms for self-defence, the first and most unquestionable privilege of man, in or out of society, and expressly provided for by the very letter of English law.—It was ingeniously put by the learned Counsel, in the examination of a witness, that it was complained of amongst them, that very little was sufficient to obtain a warrant from some magistrates, and that therefore it was as well to be provided for those who might have warrants as for those who had none. Gentlemen, I am too much exhausted to pursue or argue such a difference, even if it existed upon the evidence, because if the societies in question (however mistakenly) considered their meetings to be legal, and the warrants to disturb them to be beyond the authority of the magistrate to grant, they had a right, at the peril of the legal consequences, to stand upon their defence; and it is no transgression of the law, much less high treason against the King, to resist his officers



when they pass the bounds of their authority. So much for the general evidence of arms; and the first and last time that even the name of the prisoner is connected with the subject, is by a letter he received from a person of the name of Davison. I am anxious that this part of the case should be distinctly understood, and I will, therefore, bring back this letter to your attention; the letter is as follows:

"FELLOW-CITIZEN;—The barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive, against any attack they may command their newly armed minions to make upon us. A plan has been hit upon, and, if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots, great enough to make them formidable. The blades are made of steel, tempered and polished after an approved form. They may be fixed into any shafts (but fir ones are recommended) of the girth of the accompanying hoops at the top end, and about an inch more at the bottom.

"The blades and hoops (more than which cannot properly be sent to any great distance) will be charged one shilling. Money to be sent with the orders.

"As the institution is in its infancy, immediate encouragement is necessary.

"Orders may be sent to the Secretary of the Sheffield Constitutional Society. [Struck out.]

"RICHARD DAVISON.

"Sheffield, April 24th, 1794."

Gentlemen, you must recollect (for if it should escape you, it might make a great difference) that Davison directs the answer to this letter to be sent to Robert Moody at Sheffield, to prevent post-office suspicion; and that he also encloses in it a similar one, which Mr. Hardy was to forward to Norwich, in order that the society at that place might provide pikes for themselves, in the same manner that Davison was recommending, through Hardy, to the people of London. Now what followed upon the prisoner's receiving this letter?—It is in evidence, by this very Moody, to whom the answer was to be sent, and who was examined as a witness by the crown, that he never received any answer to the letter; and, although there was an universal seizure of papers, no such letter, nor any other, appeared to have been written; and, what is more, the letter to Norwich, from Davison, enclosed in his letter to Hardy, was never forwarded, but was found in his custody when he was arrested, three weeks afterwards, folded up in the other, and unopened, as he received it.—Good God! what is become of the humane sanctuary of English justice—where is the sense and meaning of the term *provenably* in the statute of king Edward, if such evidence can be received against an English subject, on a trial for his life?—If a man writes a letter to me about pikes, or about any thing else, can I help it?

—And is it evidence (except to acquit me of suspicion) when it appears that nothing is done upon it? Mr. Hardy never before corresponded with Davison—he never desired him to write to him.—How indeed could he desire him when his very existence was unknown to him?—He never returned an answer;—he never forwarded the enclosed to Norwich;—he never even communicated the letter itself to his own society, although he was its secretary, which showed he considered it as the unauthorized, officious correspondence of a private man;—he never acted upon it at all, nor appears to have regarded it as dangerous or important, since he neither destroyed nor concealed it. Gentlemen, I declare I hardly know in what language to express my astonishment, that the crown can ask you to shed the blood of the man at the bar upon such foundations.—Yet this is the whole of the written evidence concerning arms: for the remainder of the plot rests, for its foundation, upon the parole evidence, the whole of which I shall pursue with precision, and not suffer a link of the chain to pass unexamined.

William Camage was the first witness: he swore that the Sheffield societies were frequently insulted, and threatened to be dispersed; so that the people in general thought it necessary to defend themselves against illegal attacks:—that the justices having officiously intruded themselves into their peaceable and legal meetings, they thought they had a right to be armed; but they did not claim this right under the law of nature, or by theories of government, but as ENGLISH SUBJECTS, under the government of ENGLAND; for they say in their paper, which has been read by the crown that would condemn them, that they were entitled by the BILL OF RIGHTS to be armed. Gentlemen, they state their title truly.—The preamble of that statute enumerates the offences of king James 2nd; amongst the chief of which was, his causing his subjects to be disarmed, and then our ancestors claim this violated right as their inalienable inheritance.—Let us therefore be cautious how we rush to the conclusion, that men are plotting treason against the king, because they are asserting a right, the violation of which has been adjudged against a king to be treason against the people; and let us not suppose that English subjects are a banditti, for preparing to defend their legal liberties with pikes, because pikes may have been accidentally employed in another country to destroy both liberty and law.—Camage says he was spoken to by this Davison about three dozen of pikes—What then?—He is THE CROWN'S WITNESS, WHOM THEY OFFER TO YOU AS THE WITNESS OF TRUTH, and he started with horror at the idea of violence, and spoke with visible reverence for the king; saying, God forbid that he should touch him; but he, nevertheless, had a pike for himself. Indeed, the manliness with which he avowed it, gave an additional strength to his evidence.—"No



doubt," says he, "I had a pike, but I would not have remained an hour a member of the society, if I had heard a syllable, that it was in the contemplation of any body to employ pikes or any other arms against the king or the government.—We meant to petition parliament, through the means of the convention of Edinburgh, thinking that the House of Commons would listen to this expression of the general sentiments of the people; for it had been thrown out, he said, in parliament, that the people did not desire it themselves."

Mr. Broomhead, whose evidence I have already commented upon, a sedate, plain, sensible man, spoke also of his affection to the government, and of the insults and threats which had been offered to the people of Sheffield: he says, "I heard of arms on the Castle-hill, but it is fit this should be distinctly explained: a wicked hand-bill, to provoke and terrify the multitude, had been thrown about the town in the night, which caused agitation in the minds of the people; and it was then spoken of, as being the right of every individual, to have arms for defence; but there was no idea ever started of *existing*, much less of *attacking*, the government. I never heard of such a thing. I fear God," said the witness, "and honour the king; and would not have consented to send a delegate to Edinburgh, but for peaceable and legal purposes."

The next evidence, upon the subject of arms, is what is proved by Widdison, to which I beg your particular attention, because, if there be any reliance upon his testimony, it puts an end to every criminal imputation upon Davison, through whom, in the strange manner already observed upon, Hardy could alone be criminated.

This man, Widdison, who was both a turner and hair-dresser, and who dressed Davison's hair, and was his most intimate acquaintance, gives you an account of their most confidential conversations upon the subject of the pikes, when it is impossible that they could be imposing upon one another; and he declares, upon his solemn oath, that Davison, without even the knowledge or authority of the Sheffield Society, thinking that the same insults might be offered to the London Societies, wrote the letter to Hardy, *of his own head, as the witness expressed it*, and that he, Widdison, made the pike-shafts, to the number of a dozen and a half.—Davison, he said, was his customer; he told him that people began to think themselves in danger, and he therefore made the handles of the pikes for sale, to the number of a dozen and a half, and one likewise for himself, without conceiving that he offended against any law. "I love the King," said Widdison, "as much as any man, and all the people I associated with did the same; I would not have stayed with them if they had not:—Mr. Yorke often told me privately, that he was for universal representation, and so were we all—THE DUKE OF RICHMOND'S PLAN WAS OUR ONLY OBJECT."

This was the witness who was shown the duke's letter, and spoke to it as being circulated, and as the very creed of the societies.—This evidence shows, beyond all doubt, the genuine sentiments of these people, because it consists of their most confidential communications with one another; and the only answer, therefore, that can possibly be given to it is, that the witnesses, who deliver it, are imposing upon the Court.—But this (as I have wearied you with reiterating) the crown cannot say: for, in that case, their whole proof falls to the ground together, since it is only from the same witnesses that the very existence of these pikes and their handles comes before us; and, if you suspect their evidence *in part*, for the reasons already given, it must be *in toto* rejected.—My friend is so good as to furnish me with this farther observation, that Widdison said he had often heard those who called themselves aristocrats say, that if an invasion of the country should take place, they would begin with destroying their enemies at home, that they might be unanimous in the defence of their country.

John Hill was next called: he is a cutler, and was employed by Davison to make the blades for the pikes; he saw the letter which was sent to Hardy, and knew that it was sent lest there should be the same call for defence in London against illegal attacks upon the societies; for that at Sheffield they were daily insulted, and that the opposite party came to his own house, fired muskets under the door, and threatened to pull it down; he swears that they were, to a man, faithful to the king, and that the reform proposed was in the Commons House of Parliament.

John Edwards was called, farther to connect the prisoner with this combination of force: but so far from establishing it, he swore, upon his cross-examination, that his only reason for going to Hardy's was, that he wanted a pike for his own defence, without connexion with Davison, or with Sheffield, and without concert or correspondence with any body. He had heard, he said, of the violences at Sheffield, and of the pikes that had been made there for defence; that Hardy, on his application, showed him the letter which, as has appeared, he never showed to any other person.—This is the whole sum and substance of the evidence which applies to the charge of pikes, after the closest investigation, under the sanction, and by the aid of parliament itself; evidence which, so far from establishing the fact, would have been a satisfactory answer to almost any testimony by which such a fact could have been supported: for in this unparalleled proceeding, the prisoner's counsel is driven by his duty to dwell upon the detail of the crown's proofs; because the whole body of it is the completest answer to the indictment which even a free choice itself could have selected.—It is farther worthy of your attention, that, as far as the evidence proceeds from these plain, natural

sources, which the crown was driven to, for the necessary foundation of the proceedings before you, it has been simple,—uniform,—natural, and consistent; and that whenever a different complexion was to be given to it, it was only through the medium of spies and informers, and of men, independently of their infamous trade, of the most abandoned and profligate characters.

Before I advert to what has been sworn by this description of persons, I will give you a wholesome caution concerning them, and, having no eloquence of my own to enforce it, I will give it to you in the language of the same gentleman whose works are always seasonable, when moral or political lessons are to be rendered delightful. Look then at the picture of society, as Mr. Burke has drawn it, under the dominion of spies and informers: I say under their *dominion*, for a resort to spies may, on occasions, be justifiable, and their evidence, when confirmed, may deserve implicit credit: but I say under the *dominion* of spies and informers, because the case of the crown must stand alone upon their evidence, and upon their evidence, not only unconfirmed, but in *direct contradiction to every witness, not an informer or a spy*, and in a case too where the truth, whatever it is, lies within the knowledge of forty or fifty thousand people. Mr. Burke says—I believe I can remember it without reference to the book.

“A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

“In this situation men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse and in social habits.—The blood of wholesome kindred is infected.—The tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment.—This species of universal subversivity that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I vow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the gaol distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him.”

Gentlemen, let me bring to your recollection the deportment of the first of this tribe,

Mr. Alexander,—who could not in half an hour even tell where he had lived, or why he had left his master.—Does any man believe that he had forgotten these most recent transactions of his life? Certainly not—but his history would have undone his credit, and must therefore be concealed—He had lived with a linen draper, whose address we could scarcely get from him, and they had parted because they had words:—What were the words? We were not to be told that.—He then went to a Mr. Kellerby's, who agreed with him at twenty-five guineas a year.—Why did he not stay there?—He was obliged, it seems, to give up his lucrative agreement, because he was obliged to attend here as a witness.—Gentlemen, Mr. Kellerby lives only in Holborn, and was he obliged to give up a permanent engagement with a tradesman in Holborn, because he was obliged to be absent at the Old Bailey for five minutes in one single day? I asked him if he had told Mr. White, the solicitor for the Treasury, who would not have been so cruel as to deprive a man of his bread by keeping him upon attendance which might have been avoided by a particular notice.—The thing spoke for itself—he had never told Mr. White: but had he ever told Mr. Kellerby? for how else could he know that his place was inconsistent with his engagement upon this trial? No, he had never told him!—How then did he collect that his place was inconsistent with his duty here? This question never received any answer.—You saw how he dealt with it, and how he stood stammering, not daring to lift up his countenance in any direction,—confused,—disconcerted,—and confounded.

Driven from the accusation upon the subject of pikes, and even from the very colour of accusation, and knowing that nothing was to be done without the proof of arms, we have got this miserable, solitary knife, held up to us as the engine which was to destroy the constitution of this country; and Mr. Groves, an Old Bailey solicitor, employed as a spy upon the occasion, has been selected to give probability to this monstrous absurdity, by his *respectable* evidence.—I understand that this same gentleman has carried his system of spying to such a pitch as to practise it since this unfortunate man has been standing a prisoner before you, proffering himself, as a friend, to the committee preparing his defence that he might discover to the crown the materials by which he meant to defend his life.—I state this only from report, and I hope in God I am mistaken; for human nature starts back appalled from such atrocity, and shrinks and trembles at the very statement of it.—But as to the perjury of this miscreant, it will appear palpable beyond all question, and he shall answer for it in due season. He you he attended at Chalk Farm there, forsooth, amongst thousand people, with knives.

seen many more, as hardly any man goes without a knife of some sort in his pocket.—He asked, however, it seems, where they got these knives, and was directed to Green, a hair-dresser, who deals besides in cutlery; and accordingly this notable Mr. Groves went (as he told us) to Green's, and asked to purchase a knife; when Green in answer to him said, "speak low, for my wife is a damn'd aristocrat."—This answer was sworn to by the wretch, to give you the idea that Green, who had the knives to sell, was conscious that he kept them for an illegal and wicked purpose, and that they were not to be sold in public.—The door, he says, being ajar, the man desired him to speak low, from whence he would have you understand that it was because this aristocratic wife was within hearing.—This, gentlemen, is the testimony of Groves, and Green himself is called as the next witness; and called by whom? Not by me—I know nothing of him, he is the crown's own witness.—He is called to confirm Groves's evidence; but *not bring a spy*, he declared solemnly upon his oath, and I can confirm his evidence by several respectable people, that the knives in question lie constantly, and lay then, in his open shop-window, in what is called the show glass, where cutlers, like other tradesmen, expose their ware to public view; and that the knives differ in nothing from others publicly sold in the Strand, and every other street in London;—that he bespoke them from a rider, who came round for orders in the usual way; that he sold only fourteen in all, and that they were made up in little packets, one of which Mr. Hardy had, who was to choose one for himself, but four more were found in his possession, because he was arrested before Green had an opportunity of sending for them.

Gentlemen, I think the pikes and knives are now completely disposed of; but something was said also about guns; let us, therefore, see what that amounts to.—It appears that Mr. Hardy was applied to by Samuel Williams, a gun-engraver, who was not even a member of any society, and who asked him if he knew any body who wanted a gun—Hardy said he did not; and undoubtedly upon the crown's own showing, it must be taken for granted that if at that time he had been acquainted with any plan of arming, he would have given a different answer, and would have jumped at the offer:—about a fortnight afterwards, however (Hardy in the interval having become acquainted with Franklow), Williams called to buy a pair of shoes, and then Hardy, recollecting his former application referred him to Franklow, who had in the most public manner raised the forty men, who were called the Loyal Lambeth Association:—so that, in order to give this transaction any bearing upon the charge, it became necessary under Franklow's association as an armed  
 —against the government;—though  
 —who composed it were col-  
 —important;—though

they were enrolled under public articles;—and though Franklow himself, as appears from the evidence, attended publicly at the Globe tavern in his uniform, whilst the cartouch boxes and the other accoutrements of these secret conspirators lay publicly upon his shop board, exposed to the open view of all his customers and neighbours. This story, therefore, is not less contemptible than that which you must have all heard concerning Mr. Walker,\* whom I went to defend at Lancaster, where that respectable gentleman was brought to trial upon such a trumped up charge, supported by the solitary evidence of one Dunn, a most infamous witness: but what was the end of that prosecution?—I recollect it to the honour of my friend, Mr. Law, who conducted it for the crown, who, knowing that there were persons whose passions were agitated upon these subjects at that moment, and that many persons had enrolled themselves in societies to resist conspiracies against the government, behaved in a most manly and honourable manner, in a manner, indeed, which the public ought to know, and which I hope it never will forget: he would not even put me upon my challenges to such persons, but withdrew them from the panel; and when he saw the complexion of the affair, from the contradiction of the infamous witness whose testimony supported it, he honourably gave up the cause.

Gentlemen, the evidence of Lynam does not require the same contradiction which fell upon Mr. Groves, because it destroys itself by its own intrinsic inconsistency;—I could not, indeed, if it were to save my life, undertake to state it to you.—It lasted, I think, about six or seven hours, but I have marked under different parts of it, passages so grossly contradictory, matter so impossible, so inconsistent with any course of conduct, that it will be sufficient to bring these parts to your view, to destroy all the rest. But let us first examine in what manner this matter, such as it is, was recorded.—He professed to speak from notes, yet I observed him frequently looking up to the ceiling whilst he was speaking;—when I said to him, Are you now speaking from a note? Have you got any note of what you are now saying? he answered; Oh no, this is from recollection.—Good God Almighty! recollection mixing itself with notes in a case of high treason:—He did not even take down the words—nay, to do the man justice, he did not even affect to have taken the words, but only the substance, as he himself expressed it—(O EXCELLENT EVIDENCE!)—THE SUBSTANCE OF WORDS TAKEN DOWN BY A SPY, AND SUPPLIED, WHEN DEFECTIVE, BY HIS MEMORY. But I must not call him a spy; for it seems he took them *bona fide* as a delegate, and yet *bona fide* as an informer;—what a happy combination of fidelity! faithful to serve, and faithful to betray!—correct to re-

\* See his trial Vol. 23, p. 1055.



cord for the business of the society, and correct to dissolve and to punish it!—What after all do the notes amount to? I will advert to the parts I alluded to—they were, it seems, to go to Frith-street, to sign the Declaration of the Friends of the Liberty of the Press, which lay there already signed by between twenty and thirty members of the House of Commons, and many other respectable and opulent men; and then they were to begin civil confusion, and the king's head and Mr. Pitt's were to be placed on Temple-bar.—Immediately after which we find them resolving unanimously to thank Mr. Wharton for his speech to support the glorious Revolution of 1688, which supports the very throne that was to be destroyed! which same speech they were to circulate in thousands for the use of the societies throughout the kingdom.—Such incoherent, impossible matter, proceeding from such a source, is unworthy of all farther concern.

Thus driven out of every thing which relates to arms, and from every other matter which can possibly attack upon life, they have recourse to an expedient, which, I declare, fills my mind with horror and terror: it is this.—The Corresponding Society had (you recollect), two years before, sent delegates to Scotland, with specific instructions, peaceably to pursue a parliamentary reform;—when the convention which they were sent to was dispersed, they sent no others—for they were arrested when only considering of the propriety of another convention. It happened that Mr. Hardy was the secretary during the period of these Scotch proceedings, and the letters consequently written by him, during that period, were all official letters from a large body circulated by him in point of form. When the proposition took place for calling a second convention, Mr. Hardy continued to be secretary, and in that character, signed the circular letter read in the evidence for the crown, which appears to have found its way, in the course of circulation, into Scotland. This single circumstance has been admitted as the foundation of receiving in evidence against the prisoner, a long transaction imputed to one Watt,\* at Edinburgh, whose very existence was unknown to Hardy.—This Watt had been employed by government as a spy, but at last caught a Tartar in his spyship; for, in endeavouring to urge innocent men to a project, which never entered into their imaginations, he was obliged to show himself ready to do what he recommended to others; and the tables being turned upon him, he was hanged by his employers.—This man Watt read from a paper designs to be accomplished, but which he never intended to attempt, and the success of which he knew to be visionary.—To suppose that Great Britain could have been destroyed by such a rebel as Watt, would be, as Dr. Johnson says,

\* See this case, *ante*, Vol. 25, p. 1167.

to expect that a great city might be drowned by the overflowing of its kennels. But whatever might be the peril of Watt's conspiracy, what had Hardy to do with it? The persons with Watt were five or six persons, wholly unknown to Hardy, and not members of any society of which Mr. Hardy was a member; I vow to God, therefore, that I cannot express what I feel, when I am obliged to state the evidence by which he is sought to be affected.—A letter, viz. the circular letter signed by Hardy for calling another convention, is shown to George Ross, who says he received it from one Stock, who belonged to a society which met in Nicholson-street, in Edinburgh, and that he sent it to Perth, Strathaven, Paisley, and other places in Scotland; and the single unconnected evidence of this public letter, finding its way into Scotland, is made the foundation of letting in the whole evidence, which hanged Watt, against Hardy, who never knew him.—Government hanged its own spy in Scotland upon that evidence, and it may be sufficient evidence for that purpose: I will not argue the case of a dead man, and, above all, of such a man; but I will say, that too much money was spent upon this performance, as I think it cost government about fifty thousand pounds.—Mr. Ewan says, that Watt read from a paper to a committee of six or seven people, of which he, the witness, was a member, that gentlemen, residing in the country, were not to leave their habitations, under pain of death; that an attack was to be made in the manner you remember, and that the lord justice Clerk, and the judges, were to be cut off by these men in buckram; and then an address was to be sent to the king, desiring him to dismiss his ministers and to put an end to the war, or that he might expect had consequences. WHAT IS ALL THIS TO MR. HARDY? How is it possible to affect him with any part of this? Hear the sequel, and then judge for yourselves.—Mr. Watt said (i. e. the man who is hanged, said), after reading the paper, that he, Watt, wished to correspond with Mr. Hardy in a safe manner;—so that because a ruffian and a scoundrel, whom I never saw or heard of, chooses, at the distance of four hundred miles, to say, that he wishes to correspond with me, I am to be involved in the guilt of his actions! It is not proved, or insinuated, that Mr. Hardy ever saw, or heard of, or knew, that such men were in being as Watt or Downie:—and is it proved, or asserted, that any letter was, in fact, written by either of them to Hardy, or to any other person.—No such letter has been found in his possession, nor a trace of any connexion between them and any member of any English society;—the truth I believe is, that nothing was intended by Watt but to entrap others to obtain a reward for himself, and he has been *empty-headed*. Gentlemen, I do not stand to be making no attack

ment;—I have wished, throughout the whole cause, that good intentions may be imputed to it, but I really confess, that it requires some ingenuity for government to account for the original existence of all this history, and its subsequent application to the present trial. They went down to Scotland, after the arrest of the prisoners, in order, I suppose, that we might be taught the law of high treason by the lord justice Clerk of Edinburgh, and that there should be a sort of rehearsal to teach the people of England to administer English laws; for, after all this expense and preparation, no man was put upon his trial, nor even arraigned under the special commission in Scotland, but these two men; one for reading this paper, and the other for not dissenting from it when it was read; and, with regard to this last unfortunate person, the crown thought it indecent, as it would indeed have been indecent and scandalous, to execute the law upon him; as a gentleman upon his jury said he would die, rather than convict Downie without a recommendation of mercy, and he was only brought over to join in the verdict, under the idea that he would not be executed, and accordingly he has not suffered execution. If Downie, then, was an object of mercy, or rather of justice, though he was in the very room with Watt, and heard distinctly the proposition, upon what possible ground can they demand the life of the prisoner at the bar, on account of a connexion with the very same individual, *though he never corresponded with him, nor saw him, nor heard of him,—to whose very being he was an utter stranger?*

Gentlemen, it is impossible for me to know what impression this observation makes upon you, or upon the Court; but I declare I am deeply impressed with the application of it.—How is a man to defend himself against such implications of guilt?—Which of us all would be safe, standing at the bar of God or man, if he were even to answer for all his *own* expressions, without taking upon him the crimes or rashnesses of *others*? This poor man has, indeed, none of his own to answer for: yet how can he stand safely in judgment before you, if, in a season of alarm and agitation, with the whole pressure of government upon him, your minds are to be distracted with criminating materials brought from so many quarters, and of an extent which mocks all power of discrimination?—I am conscious that I have not adverted to the thousandth part of them; yet I am sinking, under fatigue and weakness.—I am at this moment scarcely able to stand up whilst I am speaking to you, deprived as I have been, for nights together, of every thing that deserves the name of rest, repose, or comfort.—I, therefore, hasten, whilst yet I may be able, to remind you once again of the great principle into which all I have been saying resolves itself.

Gentlemen, my whole argument then amounts to no more than this, that before the crime of compassing THE KING'S DEATH can be found by you, the jury, whose province it is to judge of its existence, it must be *believed by you* to have existed in point of fact.—Before you can adjudge A FACT, you must believe it—not suspect it—or imagine it, or fancy it,—BUT BELIEVE IT;—and it is impossible to impress the human mind with such a reasonable and certain belief, as is necessary to be impressed, before a christian man can adjudge his neighbour to the smallest penalty, much less to the pains of death, without having such evidence as a reasonable mind will accept of, as the infallible test of truth. And what is that evidence?—Neither more nor less than that which the constitution has established in the courts for the general administration of justice; namely, that the evidence convinces the jury, beyond all reasonable doubt, that the criminal *intention*, constituting the crime, existed in the mind of the man upon trial, and was the main spring of his conduct. The rules of evidence, as they are settled by law, and adopted in its general administration, are not to be overruled or tampered with.—They are founded in the charities of religion—in the philosophy of nature—in the truths of history, and in the experience of common life; and whoever ventures rashly to depart from them, let him remember that it will be meted to him in the same measure, and that both God and man will judge him accordingly.—These are arguments addressed to your reasons and consciences, not to be shaken in upright minds by any precedent, for no precedents can sanctify injustice;—if they could, every human right would long ago have been extinct upon the earth.—If the state trials in bad times are to be searched for precedents, what murders may you not commit;—what law of humanity may you not trample upon;—what rule of justice may you not violate;—and what maxim of wise policy may you not abrogate and confound? If precedents in bad times are to be implicitly followed, why should we have heard any evidence at all? You might have convicted without any evidence, for many have been so convicted, and in this manner murdered, even by acts of parliament. If precedents in bad times are to be followed, why should the Lords and Commons have investigated these charges, and the crown have put them into this course of judicial trial? since, without such a trial, and even after an acquittal upon one, they might have attainted all the prisoners by act of parliament;—they did so in the case of lord Strafford.\*—There are precedents, therefore, for all such things;—but such precedents as could not for a moment survive the times of madness and distraction, which gave them birth, but which, as soon as the spurs of the

\* See it, *ant*, Vol. 3, p. 1381.

occasions were blunted, were repealed and execrated even by parliaments, which, little as I may think of the present, ought not to be compared with it: parliaments sitting in the darkness of former times,—in the night of freedom,—before the principles of government were developed, and before the constitution became fixed.—The last of these precedents, and all the proceedings upon it, were ordered to be taken off the file and burnt, to the intent that the same might no longer be visible in after ages: an order dictated, no doubt, by a pious tenderness for national honour, and meant as a charitable covering for the crimes of our fathers.—But it was a sin against posterity; it was a treason against society,—for, instead of commanding them to be burnt they should rather have directed them to be blazoned in large letters upon the walls of our courts of justice, that, like the characters decyphered by the prophet of God, to the Eastern tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice.

In times, when the whole habitable earth is in a state of change and fluctuation,—when deserts are starting up into civilized empires around you,—and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular governments, enlist themselves, like the citizens of an enlightened world, into whatever communities in which their civil liberties may be best protected; it never can be for the advantage of this country to prove, that the strict, unextended letter of her laws, is no security to its inhabitants.—On the contrary, when so dangerous a lure is every where holding out to emigration, it will be found to be the wisest policy of Great Britain to set up her happy constitution,—the strict letter of her guardian

Gentlemen, what we read of in books makes but a faint impression upon us, compared to what we see passing under our eyes in the living world.—I remember the people of another country, in like manner, contending for a renovation of their constitution, sometimes illegally and turbulently, but still devoted to an honest end;—I myself saw the people of Brabant so contending for the ancient constitution of the good Duke of Burgundy;—how was this people dealt by?—All, who were only contending for their own rights and privileges, were supposed to be of course disaffected to the Emperor:—they were handed over to courts constituted for the emergency, as this is, and the Emperor marched his army through the country till all was peace;—but such peace as there is in Vesuvius, or Ætna, the very moment before they vomit forth their lava, and roll their conflagrations over the devoted habitations of mankind:—when the French approached, the fatal effects were suddenly seen of a government of constraint and terror;—the well-affected were dispirited, and the disaffected inflamed into fury.—At that moment the Archduchess fled from Brussels, and the Duke of Saxe-Teschien was sent express to offer the *joyeuse entrée* so long petitioned for in vain: but the season of concession was past;—the storm blew from every quarter, and the throne of Brabant departed for ever from the House of Burgundy. Gentlemen, I venture to affirm, that, with other councils, this fatal prelude to the last revolution in that country, might have been averted. If the Emperor had been advised to make the concessions of justice and affection to his people, they would have risen in a mass to maintain their prince's authority, interwoven with their own liberties; and the French, the giants of modern times, would, like the giants



tion. My hold of the colonies is in the close affection which grows from common names, from kindred blood, from similar privileges, and equal protection. These are ties which, though light as air, are as strong as links of iron. Let the colonies always keep the idea of their civil rights associated with your government, they will cling and grapple to you, and no force under heaven will be of power to tear them from their allegiance. But let it be once understood, that your government may be one thing, and their privileges another; that these two things may exist without any mutual relation; the cement is gone; the cohesion is loosened; and every thing hastens to decay and dissolution. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship freedom, they will turn their faces toward you. The more they multiply, the more friends you will have; the more ardently they love liberty, the more perfect will be their obedience. Slavery they can have any where. It is a weed that grows in every soil. They may have it from Spain, they may have it from Prussia. But until you become lost to all feeling of your true interest and your natural dignity, freedom they can have from none but you. This is the commodity of price, of which you have the monopoly. This is the true act of navigation, which binds to you the commerce of the colonies, and through them secures to you the wealth of the world. Is it not the same virtue which does every thing for us here in England? Do you imagine then, that it is the land-tax act which raises your revenue? that it is the annual vote in the Committee of Supply, which gives you your army? or that it is the Mutiny Bill which inspires it with bravery and discipline? No! surely no! It is the love of the people; it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber.\*\*

Gentlemen, to conclude.—My fervent wish is, that we may not conjure up a spirit to destroy ourselves, nor set the example here of what in another country we deplore.—Let us cherish the old and venerable laws of our forefathers.—Let our judicial administration be strict and pure; and let the Jury of the land preserve the life of a fellow-subject, who only asks it from them upon the same terms under which they hold their own lives, and all that is dear to them and their posterity for ever.—Let me repeat the wish with which I began my address to you, and which proceeds

from the very bottom of my heart :—may it please God, who is the Author of all mercies to mankind, whose providence, I am persuaded, guides and superintends the transactions of the world, and whose guardian spirit has for ever hovered over this prosperous island, to direct and fortify your judgments. I am aware I have not acquitted myself to the unfortunate man, who has put his trust in me, in the manner I could have wished;—yet I am unable to proceed any farther; exhausted in spirit and in strength, but confident in the expectation of justice.—There is one thing more, however, that (if I can) I must state to you, namely, that I will show, by as many witnesses, as it may be found necessary or convenient for you to hear upon the subject, that the views of the societies were what I have alleged them to be;—that whatever irregularities or indiscretions they might have committed, their purposes were honest;—and that Mr. Hardy's, above all other men, can be established to have been so. I have, indeed, an Honourable Gentleman (Mr. Francis\*) in my eye, at this moment, to be called hereafter as a witness, who being desirous in his place, as a member of Parliament, to promote an inquiry into the seditious practices complained of, Mr. Hardy offered himself voluntarily to come forward, proffered a sight of all the papers, which were afterwards seized in his custody, and tendered every possible assistance to give satisfaction to the laws of his country, if found to be offended. I will show likewise his character to be religious, temperate, humane, and moderate, and his uniform conduct all that can belong to a good subject, and an honest man.—When you have heard this evidence, it will, beyond all doubt, confirm you in coming to the conclusion which, at such great length (for which I entreat your pardon), I have been endeavouring to support.†

\* Now sir Philip Francis, K. B.

† “ So strongly prepossessed were the multitude in favour of the innocence of the prisoner, that when Mr. Erskine had finished his speech, an irresistible acclamation pervaded the Court, and to an immense distance round. The streets were seemingly filled with the whole of the inhabitants of London, and the passages were so thronged that it was impossible for the judges to get to their carriages. Mr. Erskine went out and addressed the multitude, desiring them to confide in the justice of the country; reminding them that the only security of Englishmen was under the inestimable laws of England, and that any attempt to overawe or bias them, would not only be an affront to public justice, but would endanger the lives of the accused. He then besought them to retire, and in a few minutes there was scarcely a person to be seen near the court. No spectacle could be more interesting and affecting.—We cannot help being of opinion, that it is the wisest policy upon all

\* See Mr. Burke's Speech on moving his Resolutions for conciliation with America, New Parl. Hist. Vol. 18, pp. 534, 535.

*Florimond Goddard* sworn.—Examined by  
Mr. Gibbs.

You were a member, I believe, of the London Corresponding Society?—I was.

Were you of the same division with the prisoner, Mr. Hardy?—Yes; No. 2.

Did you attend the divisions much?—Very regularly. I do not know that I missed one night during near two years; it is nearly two years since I belonged to it.

Is it two years that you have ceased to belong to it?—No; two years since I first belonged to it, to the present time. I ceased to be a member of it when Mr. Hardy was taken up.

You saw Mr. Hardy frequently?—It was very rarely that he was absent.

Were you acquainted with him?—Perfectly well; I have seen him four, five, or six times a week. I hardly ever missed a Sunday, but I called upon him, either in the course of the day, or in the evening.

What was his character—a man of a peaceable disposition, or at all inclined to riot or tumult?—A remarkably peaceable disposition.

Was he a friend to order?—Very much so; there was an instance of it in the society, at the time we were dispersed from the public-houses; he desired particularly, when we got to a private house, that no member would even bring a stick with him.

Then he was a great friend to peace and order?—Remarkably so.

What were the objects of your society?—A parliamentary reform; nothing else that I ever heard.

In what House of parliament did you wish that reform to take place?—In the House of Commons.

Lord Chief Justice *Eyre*.—The witness should be told, that there is a question touching the conduct of the society, whether it is highly criminal, or whether it is innocent; the witness understanding that, and being willing to answer, may answer; but he must understand that, in consequence of his answering the questions, on the part of the prisoner, he will also be liable to be examined on the same points, on the part of the prosecution; and that I cannot then protect him, if any question is put to him that he would wish not to answer.

Mr. Gibbs.—I understand so.

Lord Chief Justice *Eyre*.—Every witness should understand that when he is called.

Mr. Gibbs.—We think that every witness

occasions to cultivate and encourage this enthusiasm of Englishmen for the protection of the law: it binds them to the state and government of their country, and is a greater security against revolution than any restraints that the wisdom of man can impose." *Editor of Erskine's Speeches.*

that we shall call, will submit to any cross-examination the crown may choose.

Lord Chief Justice *Eyre*.—It is right he should be told.

Mr. Gibbs.—You will understand, that it will not be an excuse to you, with respect to any question that the attorney general may ask, that an answer will accuse yourself.—I am not afraid of answering to any thing that I know.

Lord Chief Justice *Eyre*.—The witness has had a fair notice of the situation he is in; if he chooses to subject himself to answer, very well.

Mr. Gibbs.—You have said, that the only object of your society was a reform in the House of Commons?—Nothing else.

Was it any part of your views to make any alteration in the House of Lords?—None.

Had you ever any design to make any attack, or to trench at all upon the authority of the crown?—No; God forbid.

You had not?—No.

Mr. Attorney General.—I object to that question; you should ask him what his object was.

Mr. Gibbs.—I understand, and I take the rule from the Court, that a counsel must not put an answer into the mouth of a witness, but he may lead him to the subject. I asked if they had any views to a change in the House of Lords.

Lord Chief Justice *Eyre*.—I apprehend the more correct question would be, what were the views of the society with respect to the House of Lords.

Mr. Gibbs.—I will put it so. You said you did wish that there should be a reform in the House of Commons; what were the views of the society with respect to the House of Lords?—None.

What were the views of the society with respect to the authority of the Crown?—None.

You told me you were intimately acquainted with Mr Hardy, did he converse with you often upon political subjects?—Frequently.

If he had had any views different from yours, do you think you should have known them?—I think I should, for curiosity often led me to ask him a number of questions.

Had you any reason, from any conversation that you ever had with him, to think that his views were different from yours; that he had any views either upon the House of Lords or the King?—No; certainly not.

Mr. Attorney General.—I object to that question.

Mr. Erskine.—Are you afraid of the question.

Mr. Attorney General.—I will not have the question put in that form; I am afraid of questions that ought not to be put.

Mr. Erskine.—Afraid of the question being put?

Mr. Attorney General.—I am afraid of no question that ought to be put, but of questions that ought not to be put.

Mr. *Erskine*.—I don't understand you.

Mr. *Attorney General*.—I think you would not have made the observation if you did.

Mr. *Erskine*.—I still less understand you now, and am surprised, I own.

Lord Chief Justice *Eyre*.—What is the question that you think there is any doubt about; let us know what the question is, and the Court will give their assistance towards mediating.

Mr. *Solicitor General*.—The attorney general objected, because the question was not put in the proper style.

Lord Chief Justice *Eyre*.—I do not exactly, at this moment, know to what it pointed; it escaped me.

Mr. *Gibbs*.—I believe I had better go on with the examination. You tell me you never collected, from Mr. Hardy, that he had any different views from those that you had?—No.

Did Mr. Hardy ever produce, at the division meeting of your society, any letter, that he received from Sheffield, about pikes?—No; never.

Did he ever communicate it to you?—Never.

*Florimond Goddard*, Cross-examined by Mr. *Attorney General*.

That Gentleman asked you whether Mr. Hardy had ever communicated to you that letter from Sheffield, you immediately said no. Now I should be glad to ask you how you knew what letter it was that that gentleman alluded to—what is the letter that you mean to speak of, when you say Hardy never communicated it to you?—The Sheffield letter.

I should be glad to know what Sheffield letter you mean?—I do not know.

Then how came you to say he never communicated the Sheffield letter, without knowing what letter it was?—The letter about pikes.

Mr. *Attorney General*.—The witness overheard that.

Mr. *Gibbs*.—I asked, in the examination in chief, whether the letter, relating to pikes, had been read; I put in those terms; I do aver, upon my veracity, that I did; and I will not have that contradicted.

Lord Chief Justice *Eyre*.—It is time for me to interpose, and not to suffer these things to pass at the table. I agree that you did ask the question in that manner, because I have taken it so; but I also agree, that you ought not to interrupt the cross-examination; they will put their questions in such manner as they please, and you will set it right, if they put it wrong, when you come to re-examine the witness; there ought not to be any breaking in upon one another, because one gentleman thinks that another gentleman did not put the question in the manner he put it; he puts the question in the manner he understands the gentleman put it.

Mr. *Gibbs*.—Because there was a direct contradiction to the fact.

Mr. *Attorney General*.—I must entreat your lordships to interpose, and I hold it to be my duty to do it. There is a gentleman who is not counsel in the cause, who sits next Mr. Gibbs, and when I asked the witness the question, what letter it was, I heard him in this part of the Court, as I believe some other gentlemen did, say, "The letter about pikes." Now I do not mean to say, and I desire in justice to that gentleman to observe, that I do not mean to say, by any means that he intended the witness should hear that explanation given to Mr. Gibbs; I do not believe it; I therefore disavow that; but I must desire that no gentleman should sit next the counsel for the defendant, or the counsel for the crown, who under—not the colour, I will not use that word—but under the fact of communicating and conversing with the defendant's counsel, should, in point of fact, lead—I do not mean to say in point of intention—the witness to giving an answer which he could not have given.

Mr. *Vaughan*.—I presume, my lord, as I have been personally alluded to, I may be permitted to speak.—I assure the attorney general, and the whole court, upon my honour, that I had none of the intentions, nor would have been guilty of the fact which he imputes to me; and the only circumstance which induced me to make one single observation is this—that Mr. Erskine and Mr. Gibbs did me the honour to desire that I would sit next them, because some months ago I was consulted upon the subject of this trial; that being the case, many circumstances might occur to my recollection with which they might not be acquainted.

Lord Chief Justice *Eyre*.—There can be no objection at all; the Court will certainly not interpose to prevent your sitting next the Counsel who are assigned for the prisoner, and giving them any assistance that your particular knowledge may enable you to give them; at the same time that situation is a delicate one, and you will undoubtedly take particular care to avoid anything that may give any ground to any man alive to suppose you do not make a correct use of it. I do not suppose you do otherwise, I have not taken any notice of your conduct that authorizes me to make any objection to it; but if you said any thing loud enough to be taken notice of by the witness, you were not so correct as you should have been.

Mr. *Vaughan*.—I certainly would not, my lord. If the Attorney-general desires, I will remove to any other part of the court.

Lord Chief Justice *Eyre*.—I do not desire you should, for if you can, though not assigned counsel for the prisoner, by your particular knowledge, be of any use to his Counsel, the Court have no objection to your giving any sort of communication you can possibly give.

Mr. *Attorney General*.—I heard said as distinctly as I hear myself, when I put the question, "the letter about the pikes."



Lord Chief Justice *Eyre*.—I had really taken down the answer of the witness before any part of this conversation arose—"that he had never heard of any letter from Sheffield about pikes."

Mr. Attorney General.—How long have you been a member of this society?—Nearly two years.

You are of the division No. 2, I understand?—Yes.

Who introduced you into this society?—A brother of mine.

Where does he live?—He did live at No. 27, in Pall-Mall? he is removed to Horse-lydown.

Were you at the Globe-tavern on the 20th of January 1794?—I was.

Were you at Chalk Farm upon the 14th of April?—I was.

Being at the Globe tavern upon the 20th of January, 1794, am I to understand you to say, that nothing passed there but what was quite peaceable and right, according to your notion?—Every thing was very peaceable.

Did you ever see a printed account of what passed there?—Yes; there were some resolutions.

Which were afterwards printed?—I was.

Were the resolutions that you saw in print a correct account of what really did pass there?—I think they were.

Then that being a correct account of what did pass upon the 20th of January 1794, you mean to state to the Court and the Jury that the proceedings, as contained in that printed paper, were according to your ideas correct and peaceable, and according to the law of the land, as you understand?—I understood it so.

You said you were at Chalk Farm?—I was.

And you also mean to state as far as your opinion goes, that the proceedings at Chalk-Farm were exactly what they really ought to be?—I thought so.

Perhaps you were at the meeting in Breillat's yard when delegates were chosen to be sent to Scotland?—I was not.

Not being there, perhaps you did not know the fact that a delegate was sent to the convention in Scotland?—Yes, I did.

Knowing the fact, you approved of that measure, I suppose?—Yes—I never was in office, but I used regularly to attend.

Did you ever hear of the Secret Committee in your society?—Yes, I have heard of it.

Then having heard of the Secret Committee, do you happen to know who the Secret Committee were composed of?—That I never did.

Bless me! you were a member of the Corresponding Society, which had a Secret Committee; all their transactions were peaceable, and yet you do not know who the Secret Committee were?—No, I do not—I will say every thing I know.

Every answer that you have given to me yet proves to me that you are an honest man.

This society, whose proceedings were so peaceable, had a Secret Committee?—They had.

Was it known among the body in general who the Secret Committee were?—I do not think it was.

Then you mean to say, giving this character of the proceedings of this society, that you remained in the society; there being a secret committee of persons whose names you did not know, of course you did not know what were the proceedings of any committee, the names of which committee you did not know?—I did not.

When the prisoner and some other people were apprehended, do not you know that there was another Secret Committee formed?—I never attended afterwards.

Do not you know that there was another Secret Committee formed?—I do not know it.

You have heard it in your divisions?—I never attended a division afterwards.

You left the society afterwards?—I left the society.

Of course, when there was that suspicion about the society, you did not choose to continue any longer?—I did not.

Who were your delegates to the Scotch Convention?—Mr. Margarot and Mr. Gerald.

Were you in the society, think you, before the 6th of August 1793?—No; I was in the society two years within a month.

I hope you have seen the address of the 6th of August, 1792?—I have, may be, but I cannot recollect it.

You do not know any thing of the contents of it?—I do not; it is not in my memory now.

You say you know nothing at all about this Sheffield letter?—No.

Did you ever hear of a circular letter that was sent into Scotland to call a convention?—Yes.

Who carried it into Scotland?—I do not know.

Do you know a person of the name of Stock?—I do not.

Recollect yourself?—I do not upon my oath.

How did the printed circular letter, with the name of T. Hardy at the bottom of it, get into Scotland upon your oath?—It was sent I presume.

Lord Chief Justice *Eyre*.—How?—I do not know.

Mr. Attorney General.—How do you know that it was sent there?—I do not know.

In point of fact, did you ever hear whether that circular letter went or not?—It might or might not.

That is no answer, so might I; I might or might not, but, in point of fact, did you ever hear whether that circular letter ever went?—It might or might not.

Lord Chief Justice *Eyre*.—But the question is, have you heard it or not?—I might

have heard it, but I cannot recollect the circumstance.

Lord Chief Justice *Eyre*.—I have taken it down, that you heard of a circular letter which went into Scotland?—I heard it went down into Scotland.

Mr. Attorney General.—Where did you hear that?—At the division.

Did you hear any thing what this circular letter was about?—what were the contents of it?—To call a convention; I cannot repeat any thing of it.

You consider all the proceedings at the Globe-tavern on the 20th of January, and also the proceedings at Chalk Farm, as in your opinion, quite peaceable and constitutional proceedings?—I thought so.

That is your notion of the matter?—Yes.

You sing some songs now and then in your society do not you?—Never in the society.

How came you never to sing them in the society?—I know not.

Is it done on purpose, or how happens that?—I know not, we were a very peaceable society—songs were not in general introduced at all.

I hope you do not mean to say that there were no songs sung at your dinner?—There were songs then.

Did you never hear of a very good song, called "God save the Rights of Man?"—I have heard of such a song.

Perhaps you sung it sometimes yourself?—Never.

Can you tell us what the contents of it are?—I cannot repeat a verse, or a line, or a syllable.

Perhaps you could inform me if you were to see it?—I could read it if I saw it.

Did you ever hear of a song that has this chorus:—

"Plant, plant the tree, fair freedom's tree,  
"Midst dangers, wounds, and slaughter,  
"Each Patriot's breast its soil shall be,  
"And Tyrant's blood its water."

Do you recollect that song?—You know more of it than I do—I have heard of such a song.

You have heard this song sung, you say, "Plant, plant the tree?"—I cannot say, upon my recollection, that I ever have heard it.

Then how came you to tell me you had heard something about "Plant, plant the tree?"—I have heard there were a number of songs; I do not know that I ever heard it sung, but I may.

When I asked you, and I appeal to the Court and the Jury, if ever you heard a song, the chorus of which was "Plant, plant the tree?"—you said yes?—I have heard there were such songs.

Did not you tell me you had heard that particular song?—I beg your pardon, I did not tell you so.

Lord Chief Justice *Eyre*.—You certainly said you had heard the song, "Plant, plant

the tree."—I have heard there was such a song, but I never heard it.

Lord Chief Justice *Eyre*.—You are quite at liberty to explain, but you did say that you had heard the song, "Plant, plant the tree?"—I have; but I have said I never heard the song in the society, and there were a number of songs sung—there was a man that did attend the society with songs, a pack of idle songs, and we would not suffer him to attend the place.

Mr. Attorney General.—How many songs of Mr. Thelwall's have you ever seen, or had in your possession?—I have had them all, but I thought there was no harm in Mr. Thelwall's songs.

Then you mean to swear you think there was no harm in Mr. Thelwall's songs?—I thought there was no harm in them when they were sold in public shops.

Do you mean to swear that you thought there was no harm in Mr. Thelwall's songs?—Yes, I do not think there was in those that I saw—I do not know what songs he may have wrote.

Be so good as tell us the names of some of Mr. Thelwall's songs, as you have all of them?—I do not know what all of them is.

Tell us the name of some of them?—There was one very long one, I cannot recollect the title of it.

You have all of Mr. Thelwall's songs, but you cannot tell the title of one of them?—I do not know how many songs he wrote, there were three of Mr. Thelwall's songs; I do not know what you mean by all.

They were printed all upon one sheet of paper, I believe?—They were sold publicly.

And dispersed all over the country, were they not?—I cannot tell; upon my oath I do not know that they were dispersed any where.

Have you those songs in your possession?—I have.

What were the titles of them?—I cannot recollect the titles.

Mr. Attorney General.—Look at this paper, read a part of that song, and tell me whether that is one?

*Goddard*.—Which song do you mean?

Mr. Attorney General.—"God save the Rights of Man."—It might or might not, I cannot say.

Mr. *Erskine*.—Is your lordship's time to be consumed about this gentleman's opinion upon a song?

Lord Chief Justice *Eyre*.—If the song is proved to have been sung in the society, then it is competent to ask whether that song is peaceable; but unless the song is proved to have been sung there—

*Goddard*.—I never heard this song sung there.

Lord Chief Justice *Eyre*.—He has said that all the proceedings there were peaceable and orderly; then if this song is proved to have been sung there, there certainly can be no impropriety in asking him whether, according

to his judgment, that proceeding was peaceable and orderly, but it is not proved that it was sung there.

Mr. *Erskine*.—But it is not proved that it was either sung or said there.

Mr. *Attorney General*.—Look at that [showing a paper to the witness] and tell me whether that was printed by order of the Corresponding Society, or not?—Not as I know of.

Had you ever a paper of that sort in your hand?—Not as I can recollect, and I would recollect if I could;—as I told you, I never was in office, but I regularly attended.

Francis Dowling sworn.—Examined by Mr. *Gibbs*.

Were you a member of the London Corresponding Society?—Yes.

Of that division of which Mr. Hardy was a member?—Yes.

What was the object of the society?—To obtain a parliamentary reform.

In what part of parliament?—In the House of Commons.

Had you any other object but that?—No other.

What did you mean with respect to the King, or the House of Lords?—We had no thoughts of them; a reform in parliament was all that we wanted.

And you have said, by parliament you meant the House of Commons?—The House of Commons.

Did you entertain any other idea yourself but that of a reform in the House of Commons?—No other.

Had you any idea of opposing the government by force?—No.

Had you any intention of doing that?—None.

Have you seen the prisoner at the bar, Mr. Hardy, there often?—Yes.

Did you ever find, from conversation with him, that he had any such intention?—Quite the contrary.

What was his character—that of a peaceable, orderly man, or the contrary?—A peaceable, orderly, and a pious man.

Were you one of the London Corresponding Society, when a convention, as it is called, was talked of?—Yes.

What was your object in calling that convention; what was it to do?—To appoint a number of delegates to take the sense of different divisions, as to obtaining, by the best means, a reform in the House of Commons.

Was it any part of your intention that this convention should proceed by force?—No, nor do I believe it was the intention of any man.

Francis Dowling cross-examined by Mr. *Attorney General*.

How long have you been a member of this society?—About two years and a half.

What division did you belong to?—No. 2.

Mr. *Gibbs*.—Did Mr. Hardy ever produce at the division, when you were there, a letter from Sheffield about pikes?—I never saw it in my life.

Lord Chief Justice *Eyre*.—Nor heard of it?—Nor heard of it from him, nor any body else.

Mr. *Attorney General*.—When did you become a member of this society?—It was in the commencement of it.

Early in March 1792, or in February?—I cannot recollect; it was about that time.

Did you dine at the Crown and Anchor-tavern upon the second of May last?

Dowling.—When Mr. Horne Tooke was in the chair.

Mr. *Attorney General*.—No, citizen Whar-ton, I understand, was in the chair.—I did.

Did you drink all the toasts given that day?—I do not recollect that I drank all the toasts.

You remember the music there?—I do not recollect what it was.

I hope you paid for your own ticket?—I did.

Are you sure of that?—Yes.

How much did you give for it?—Seven shillings and sixpence.

Were you at Chalk Farm on the 14th of April?—I was.

Were you at the Globe-tavern upon the 20th of January?—I do not know that I was at the Globe-tavern; I cannot recollect positively.

You saw, however, the proceedings at the Globe-tavern, which were afterwards in print; you saw the resolutions that were entered into?—I have seen them.

You approved of them?—I do not recollect what they were.

If you had had any objections to them when you saw them, you would of course have stated them to your society?—I cannot tell whether I had any objections to them or not.

If you had, you would have stated them to your society; you were a delegate?—I was at one time.

For how long?—About six months.

Do not you recollect the time when?—It was about five or six months back.

You are well acquainted with your friend Spence, in Holborn?—No.

Lord Chief Justice *Eyre*.—When did you cease to be a delegate?—About five or six months ago.

Mr. *Attorney General*.—You know nothing of Spence, who lives in Holborn?—I know the shop, I do not know the man personally.

You have bought a good book there now and then?—I have bought pamphlets there.

Were you ever there at the exercising time?—I do not know what you mean.

Do you know Franklow of Lambeth?—I have seen him.

Did you know that there was any exercising there?—I have heard of it.

Did you know that there was any exercis-



ing at Spence's?—I never knew it till I heard of it now.

Do you know a man of the name of Edwards?—I have heard of him.

When did you first see his pike?—I have heard of it.

Did you never see his pike till he was taken up?—No.

You have seen Hillier?—I never saw his pike.

I asked you about Hillier?—I never saw Hillier.

You had no secret committee in the London Corresponding Society, I hope, had you?—Not that I know of.

Do you know of a committee, sometimes called the Committee of Correspondence?—I have heard of such a thing.

Who were the members of it?—I cannot take upon myself to know.

Has your society a committee without knowing the members of it?—If there was one, it was voted by ballot; therefore I could not tell.

You know Mr. Hodgson, perhaps, the hatter, in the Broadway, Westminster?—I do.

Upon your oath, when the prisoner at the bar, and the other members of your secret committee, were taken up, was not there another secret committee, named by Mr. Hodgson?—I never knew of it.

Do you know of it now?—No.

Then you mean to swear that you do not know that there was such a committee?—Not appointed by Mr. Hodgson.

Then was there a secret committee appointed by any body else?

*Dawling.*—If I understand the question, it is whether there was a secret committee appointed after the apprehension of Mr. Hardy?

*Mr. Attorney General.*—Yes.—Then my answer is, I do not know.

Have you never been in Academy-court, Chancery-lane?—No.

Then if any secret committee met there, you know nothing about it?—I do not.

Do you know Smith, of Portsmouth-street?—I do.

Do you know one Burks?—Very little.

Do you know a man of the name of Higgins?—No, I never saw him, nor never heard of him till I heard of his apprehension, if that is the man.

Did you never hear of those, or any other persons being a secret committee, to succeed the secret committee of the London Corresponding Society, that had existed before those people were taken up?—No.

Had you never heard that there was a secret committee before those people were taken up?—Yes, you said—a committee of correspondence.

I did so.—Did you never hear that Smith, Higgins, or some of those people, had been a committee of correspondence before those people were taken up?—No.

You have heard of a Committee of Corre-

pondence before those people were taken up?—Yes.

Who were they?—I cannot say.

Was not it studiously kept a secret who they were?—No.

Have not you heard the members of the society complain, that they did not know who the members of the Secret Committee of Correspondence were?—No, I never heard that complaint.

Recollect yourself?—I cannot recollect myself to my knowledge upon that business.

You have said there was a secret committee, whose names you did not know; upon your oath, do you know the reason why their names were kept secret?—The reason for it that I formed myself, are the only reasons I can possibly state.

Those will not do; did you ever see in the society, a paper, that the Ins complain of one thing, and the Outs of another, and therefore advise you to get arms?—I never heard of such a thing.

Perhaps you never saw "La Guillotine; or, George's Head in a Basket?"—I never saw it.

You never saw it?—Nor never heard of it till this moment.

You say you never heard of this letter from Sheffield about pikes?—You asked me if ever I heard that letter read in the society.

Then you mean to say, you never heard that letter read in the society; have you ever heard of its coming to London?—Never till I saw it in the Reports of the Secret Committee.

It surprised you prodigiously, no doubt?—I do not know whether I was surprised at it, but I never heard of it till then.

Did you ever see the address of the 6th of August 1792?—I do not recollect any address at that time: upon what occasion?

An address from the London Corresponding Society to the nation, when they talked of petitioning parliament no more?—I do not recollect the date; I might have seen the address.

Do you know Carter, the bill-sticker?—I have seen him.

Did he stick up any bill for you?—I have heard so.

Then you knew it?—I do not know it; I never saw him with a bill, nor sticking a bill up.

Do not you know the society ordered it to be stuck up in the night?—I do not know that.

Do not you know that there was a debate in your society about paying the expenses of this man's prosecution?—I heard about his receiving money.

What was he to receive money for?—I supposed for the affair of the bills.

Do you mean to say that sticking these bills up at night, and the proceedings, such as they were at Chalk Farm, are peaceable and orderly proceedings?—I do not know that there is any thing criminal in sticking up a bill; that depends upon the contents of the

bill; and as to the proceedings at Chalk Farm, I do not know every word that was said there.

You mean to say that the proceedings were orderly and peaceable?—The general conduct of the people was very orderly and peaceable.

Lord Chief Justice *Eyre*.—Did you say you were at Chalk Farm?—Yes.

Were the resolutions there put to the question?—I believe they were.

Did you vote for them?—There are only a few people, probably, who attend to the business; out of the great number that attend, it depends, probably, upon those who have abilities, and attend more to those things than a person of my capacity probably does.

Did you vote for them?—I dare say I did among the rest.

Do you vote for things without knowing what they are?—There is no man but what is fallible in that respect; I might have done so.

Do not you see what difficulties you might bring yourself into, by concurring in things without knowing what they are? were you near enough to hear what they were?—I was at a considerable distance.

How did you vote?—By holding up hands.

Did you vote then upon the confidence you had in any body that was there? or what induced you to vote for a resolution you did not hear?—In consequence of seeing all the rest vote.

*Alexander Wills* sworn.—Examined by *Mr. Gibbs*.

Were you a member of the London Corresponding Society?—Yes.

How long were you a member of it?—Between two and three years.

Do you know Mr. Hardy?—Yes.

What were the objects of the society?—Parliamentary reform.

A reform in what part of parliament?—In the House of Commons.

What were your intentions as to any other part of parliament, as to the King, or the Lords?—Full of respect, and honour, and fidelity.

Then your intention was only to work a reformation in the House of Commons?—Solely.

Had you any reason to think that any other members of the society intended any thing else?—Never.

Was it the intention of any member of the society to bring this about by force?—Never to my knowledge.

Would you have continued in the society, if you had found they had any such intentions?—Not for a moment.

Were you at the society when the resolutions concerning a convention passed?—No; I have not been at the society for more than a year and a half.

Was there any reason for your absenting yourself?—No; I had nothing upon my con-

science to deter me from being a member; but I had not an opportunity of being there from my avocations leading me another way.

Was it merely from your avocations leading you another way?—Entirely so.

How long have you known Mr. Hardy?—I have never had the pleasure of knowing him but from his making me a pair of boots, and seeing him as secretary. He made me a pair of boots very excellent and cheap.

Is he a good member of society from what you have heard?—I never heard but that he was.

*Alexander Wills* cross-examined by *Mr. Bower*.

What may your business, or profession be?—A dancing-master.

Were you a member of the Constitutional Society?—Yes.

You were a member of both societies?—Yes.

When were you elected a member of the Corresponding Society?—I imagine better than two years ago.

How long have you belonged to the Constitutional Society?—Soon after I became a member of the Corresponding Society;—I wished to be a member of the Constitutional Society from a wish to hear clever men speak, not having it in my power to go to the House of Parliament, where I could have heard more clever men undoubtedly.

You heard several men speak upon politics?—I have heard several very clever speeches.

Were they clever speeches by clever men?—You must judge whether they were clever speeches.

Did they strike you as clever speeches from clever men?—I heard one or two, I thought clever speeches.

You took up your idea of politics from them?—I took my rule of politics from public report, and from the debates in both Houses of Parliament.

You did not go to these societies to read the public papers, or to read the debates in both Houses of Parliament?—I had not time in general to read the public papers.

Which way then did you get your information?

*Wills*.—What information?

*Mr. Bower*.—Upon politics; you said you went there not having an opportunity of attending both Houses of Parliament?—I did not say that; I said I went there to hear clever men speak.

Upon what subject?—Upon any subjects.

Were any subjects discussed that did not relate to politics?—I never heard one to my knowledge.

Upon your oath, when you went there, did you expect to hear any discussion upon any subject but politics?—It was called the Constitutional Society.

That is no answer to my question; when

you went there, you said, you went there because you had no opportunity of attending the Houses of parliament, and went to hear clever men speak; upon what subject did you go expecting to hear them speak?—Upon constitutional subjects.

And those only?—Those only.

Was that the place where you took up your constitutional doctrine?—Long before that.

From the newspapers?—Sometimes I have had the honour of being in the honourable House of Commons to hear the debates.

And you went to the Constitutional Society not having opportunities to attend the House of Commons, to supply that defect?—Not to supply that defect merely, but to hear different political subjects discussed.

You had no other means of supplying the information?—Not any that I thought better.

Did you attend frequently?—You may be better informed than I am.

I know nothing.—I ask you?—I never kept any minutes of my attendance there.

Did you not, upon your oath, attend them weekly?—When I could, I did; and might for a month together when I could; but I cannot be upon my oath to say, that I did attend them weekly; I was happy to attend them weekly when I could.

Lord Chief Justice *Eyre*.—You mean you attended them as often as you could?—Yes.

Mr. *Bower*.—Were you at all acquainted with the proceedings of the society?—Very little; I never looked into their books.

Then you did not know of any of their transactions which might bring some of them, or those they employed, into difficulties?—No.

You never knew that any body was prosecuted for assisting them in their views?—Never.

Did you never hear of one William Carter?—Never.

Then, of course, you never heard that he was in confinement at all?—Stay, Mr. Counsel, give me leave to say, I was in company with a Mr. Carter, a musician, at the London coffee house.

Do you recollect Carter, the bill sticker?—I am not, in a moment, to be told that I recollect such a man if I do not; I heard of such a man, that he was in prison (I never saw him in prison) for sticking up a posting bill.—You asked me if I knew such a man? I do not; I heard of him.

You heard nothing more of him but that there was such a man?—I heard there was.

That is all. You never heard that there was a subscription entered into for him?—Yes; perhaps, I gave him a shilling, or half-a-crown, or a guinea, or five guineas, towards his relief, in confinement; but I do not know that I did to maintain him in his confinement. I did not recollect the name of Carter any more than I do your's.

That is then what you now mean to swear distinctly, for I will not let you now go back?—I do not say I gave two guineas, or five, but

I only say I subscribed something, perhaps, to the poor man's family.

Did not you say two or five guineas?—I often give five guineas without knowing to whom I give it.

Did you not, a minute ago, say you might have given a shilling, or half-a-crown, or a guinea, or five guineas, to this man, in confinement, for sticking up bills?—I did not say so, to the man for sticking up bills.

Your gestures will not do?—You seem to wish to confuse me.

I do not wish to confuse you;—the more distinct you give your answer the better; do you mean to say, upon your oath, that you did not recollect when you said, you might have given one, two, or five guineas to this man?—I did not mean to say, I had given one, two, or five guineas, but I might have given half-a-crown.

Did you give one, two, or five guineas?—I say, I did not; I might give a few shillings; I give shillings, as much as you do halfpence, to any poor man that wants it.

Then, I understand, you now swear distinctly, you might give this man a shilling; but that you did not give him five guineas?—No.

Upon your oath, you did not give this man two guineas, or five guineas?—No; I cannot recollect what I gave him.

You never gave him a guinea, or five guineas?—Not to my recollection.

Did you ever give him any thing?—I do not recollect; I often give to poor men and women in distress. I gave a hundred and fifty pounds to the British fishery, when I thought my country in distress.

I ask you, whether you did, or not, subscribe any sum of money to the man who was in confinement, for sticking up bills for the society, and on that account?—I gave, I believe, to the best of my recollection, something, but what I cannot tell.

To whom did you give something?—That I do not know.

Who asked you for it?—In some of the societies, which, and where, I do not know.

What societies?—The Corresponding Societies.

At the time you gave that, was a subscription put about for the relief of this man so in custody?—There must have been a mention of it, or I should not have known it; but I do not recollect in what manner.

Did you attend one, or more of these societies?—One.

Which was that?—The London Corresponding Society.

At which house?—At Proctor's, in Covent Garden.

Was it there you subscribed?—No; it was, I believe, in Compton-street, if I recollect right; the last time I was at any of these societies.

Was Compton-street a place where the delegates met, or a division meeting?—Yes.



the divisions, I believe; I did not belong to any delegate society, but to the common meeting.

Which division of the society did you belong to?—Proctor's, No. 2; Covent Garden; this was, I think, No. 31, Compton-street.

Did you go there as a visitor?—I believe I must have been a member of that.

You are now a member of the Covent Garden division?—Yes.

Then, whether you have been a member of that in Compton-street, you do not know?—It is the same thing; not a separate society.

The same division?—A separate division.

My question is, whether you belonged to one, or two divisions of this society?—To more than one; I think to another; I think 37.

Did you belong to more than two?—I am not sure of that; if I belonged to ten, I should own it with pleasure.

When you were in the society, did you know any thing of any secret committee; perhaps you never heard of any such thing?—I never did.

Did you ever hear of the committee of correspondence?—Never. I have heard of it since, not in the society; I have not been in the society since such a thing has been mentioned.

Of course you know nothing of any secret committee?—Never.

If a secret committee had been mentioned, it would have been to you a matter of surprise?—I do not understand you; I never heard of a secret committee of the society in my life.

Did you ever hear of any letter that had been written by the prisoner?—Never.

*Alexander Wills* Re-examined by *Mr. Gibbs*

You had heard that there was a man in custody who was in distress?—I had.

Did you, at that time, know the man's name?—I recollect it now; I did not, when the learned judge spoke to me, recollect that there was such a man in being.

Was he represented to you as an object in distress?—In real distress.

And for that man so imprisoned, and so in distress, did you subscribe any money?—I did, but what sum I cannot tell; I cannot charge my memory whether it was a shilling, a guinea, or half-a-guinea.

What was your reason for saying, just now, that you perhaps subscribed a guinea, or two guineas, or five guineas?—Because I would as soon give the one as the other, for a poor family, or individual, in distress.

Lord Chief Justice *Eyre*.—You have brought yourself into a scrape, only for the sake of a flourish. When you are upon your oath, if you would only speak plain English, you would be under no difficulty; there is a great difference between a shilling and a guinea, and five guineas, therefore you should not have conveyed an idea that you did not know whether you gave one shilling, two shillings, one

guinea, or five guineas. I would advise you, when you are upon your oath, never to speak by metaphor; you have brought yourself into difficulties; but I dare say you meant very right.

Mr. Attorney-General.—I beg your lordship will ask him what he gave.

Lord Chief Justice *Eyre*.—How much did you give, in plain English?—Perhaps a few shillings, perhaps half-a-crown.

Mr. Attorney-General.—Will your lordship please to ask him if it was not a guinea.

Lord Chief Justice *Eyre*.—Do you say it was not a guinea?—A few shillings, to the best of my knowledge.

Lord Chief Justice *Eyre*.—Under, or about five shillings?—I suppose under.

Mr. Gibbs.—I will now call a gentleman at the bar, who says he knows this witness perfectly well, and that he is a man of good character.

Lord Chief Justice *Eyre*.—That is perfectly irregular. It was certainly absurd in the witness not to recollect that he was upon his oath, and to talk in that rhodomontade way. I dare say he meant to speak the truth.

*Archibald Hunter* sworn—examined by  
Mr. Gibbs.

Were you a member of either of those societies?—Which society do you mean?

Either the society for Constitutional Information, or the London Corresponding Society?—I was a member of the London Corresponding Society, for, I think, about twenty months.

Do you know Mr. Hardy, the prisoner?—Yes: I do know him.

What division were you of—were you of the same division with Mr. Hardy?—Yes, I always understood Mr. Hardy belonged to the second division, and I belonged to the second division.

What was the object of your society?—To obtain a parliamentary reform.

In which House of parliament?—In the House of Commons most assuredly; I never understood any thing else.

What were your intentions towards the king, or towards the House of Lords?—That they should remain as they are, certainly; I never understood any thing else.

Was it the intention of any of the members of the society, that you know, to bring about this parliamentary reform by force of arms?—No, there was never any thing of the kind agitated, that I know of.

You know nothing of any such intention?—Most assuredly I do not; I never heard any thing like force of arms out of the reports of the secret committee of the House of Commons; I have read them attentively; I never heard of any force of arms out of those reports; I have heard it reported there.

Was it the intention of any of the members of the society, whom you know, to make any attack upon the government of the country?—No.

It was not?—No.

What character did Mr. Hardy bear?—The character of a peaceable, respectable, quiet man.

Was that his general character?—For what I know of him, I can only speak within the time that I have entered into the society.

Is that the character he has borne ever since you have known him?—It is, and I have every reason to believe that he is that.

While you were in the society, did Mr. Hardy ever produce, at the division, any letter from Sheffield, about pikes?—No, never.

Did you ever know of his communicating any such letter, to any of the members of the Corresponding Society?—I do not know of any such thing.

*Archibald Hunter* cross-examined by Mr. *Law*.

You never heard of a letter from Sheffield about pikes?—I never did.

Did you never read that letter?—I never was in office.

You never have read it. You say you have read the reports of the secret committee; have you never read it there?—I have read it there, but no where else.

You continue a member of the Corresponding Society to this moment?—I do.

Did you ever see a paper like that circulated? [The paper about the Ins and the Outs.] —I never have before now, I have heard of it, but I never saw it before.

Who introduced you into the society?—A relation of mine.

Has he a name?—Yes; his name is Joseph Hunter; he lives in Old Compton-street.

Did you attend the meeting of the society pretty constantly?—I cannot say that I did; I was frequently out of town, and did not attend very often; I did not attend very regularly.

What is your business?—None at all; no business at all.

May I take the liberty of asking how you get your livelihood?—I am an independent man.

You live upon your property?—Yes.

In the funds, or mortgages, or what?—That is out of the question; sometimes my property is in my pocket, sometimes in land, sometimes in the stocks, and sometimes in houses.

Were you at Chalk-farm?—Yes.

And at the Globe-tavern?—Yes.

Were you at the dinner on the 2nd of May—can you recollect whether you dined at the Crown and Anchor when Mr. Wharton was in the chair?—I do not recollect that I ever was present when Mr. Wharton was in the chair.

I asked whether you were present on the 2nd of May, at a dinner, at the Crown and Anchor, when Mr. Wharton was in the chair, you told me you were not?—Your question immediately following upon that, I concluded you meant I belonged also to the Constitutional Society.

Were you or not there?—I do not recollect I was ever at any society where Mr. Wharton was in the chair.

Were you or not there on the 2nd of May, without reference to who was in the chair?—If it was a meeting of the Corresponding Society, and you will tell me where it was, I will endeavour to recollect.

Lord Chief Justice *Eyre*.—The inquiry is, as to a meeting at the Crown and Anchor, of the Constitutional Society?—I never was at any meeting of the Constitutional Society whatever.

Mr. *Law*.—Did you ever dine, as a guest, with the Constitutional Society?—Never.

Have you been at the Globe-tavern, and at Chalk-farm?—I have.

Did you hear the resolutions which were come to at those meetings?—I did.

You have said that the proceedings of the Corresponding Society were peaceable?—As far as I could collect them, they were so.

You have said, you heard the resolutions carried at Chalk-farm—were they peaceable?—I have not said that I heard them.

Did you hear them, or not; I understood you said you did hear them?—I heard them read, but I did not attend to them.

Did you vote for them, or no?—I did not.

How came it that you did not vote for them?—Merely from that inattention which pervades my whole conduct, perhaps.

So you were there, and heard them, and they made no impression upon your conduct?—Not in the least.

You have said you voted for them?—I did not vote for them.

Did you vote against them?—I did not.

You took no part in them?—I did not.

Did you sup with your division that night?

—I did; what division do you mean?

You said you did; where did you sup?—There may be a mixture of divisions.

Where did you sup that night?—At No. 3; I think it is in Compton-street, Soho.

Was Mr. Thelwall there?—He was.

Do you recollect any songs being sung?—I do not recollect the purport of them.

What were you by business, when you condescended to follow any?—It is so long ago, I cannot recollect.

You have followed business?—I was, I believe, a perfumer.

And had you forgot what business you were; were not you a hair-dresser?—Yes.

Had you forgotten that circumstance, when I asked you just now?—I thought a perfumer was sufficient.

But you said, it was so long ago since you were in business, that you did not know what business you followed: how long is it since you have done business as a hair-dresser?—I think it is, since I followed the business of a hair-dresser, about twelve years, to the best of my recollection; I am not quite sure.

And how long since you followed the business of a perfumer?—At the same time.

Did you cease to be both at the same time?  
—Yes.

About twelve years ago?—I would not swear, upon my oath, to the time; but it is thereabouts.

Then having this perfect recollection that you have been a perfumer and a hair-dresser, about twelve years ago, how came you to tell me it was so long ago, you did not recollect what business you had carried on?—I did not say that.

Lord Chief Justice *Eyre*.—What he said was, that it was so long ago since he carried on any business, he could not recollect what business he followed.

Mr. *Law*.—I shall not ask him another question.

*Alexander Fraser* sworn.—Examined by Mr. *Gibbs*.

What business are you?—A taylor.

Are you a member of either the Constitutional or the London Corresponding Societies, or have you been?—I have been.

Of which?—Of the Corresponding Society.

How long have you been a member of it?—I fancy about ten months.

When did you cease to be a member?—I believe, last April was twelvemonth.

What was the object of the society?—A parliamentary reform.

In what part of parliament—in the representation of the people?—Of members of parliament.

Of what House of parliament?—The Commons House.

What was your intent as to the King, or the House of Lords?—Nothing at all; never.

Did you ever collect, from any of the members of the society, that they had any other intent than that of a reform in the House of Commons?—I never did, and never could.

Mr. *Garrow*.—Then I will not give you any trouble.

*William Barclay* sworn.—Examined by Mr. *Gibbs*.

What are you?—A shoemaker.

Where do you live?—In Duke-street, St Martin's-lane.

How long have you been a shoemaker?—Near thirty years.

Do you know the prisoner at the bar?—Yes.

How long have you known him?—About fifteen years.

Was he ever connected with you at all?—Yes.

In what manner?—He was servant to me for seven years.

As journeyman?—He was foreman to me for seven years.

How long ago did he cease to be a servant of yours?—About three years.

Have you known him since that time?—Yes.

During the whole of this time, the seven years he lived with you, and the three years since, during which you have known him, what character has he borne?—A very good character.

A good character for peace and order?—I never knew any thing else.

Is he of a peaceable and orderly disposition, or the contrary?—I always understood he is as quiet a man as can be.

Are you a member of the Constitutional Society, or the London Corresponding Society?—No.

Have you ever been?—No.

The rev. *Thomas Oliver* sworn.—Examined by Mr. *Gibbs*.

What are you?—A dissenting minister.



mediately asked him the intent, or ultimate end and design that this society had in view, and he told me it was a reform of parliament, that is to say, of the House of Commons, upon peaceable and constitutional principles; he farther added upon the same principles which his grace the duke of Richmond and the right hon. William Pitt were engaged in, in the year 1782. I have frequently, in conversation, inquired of him, and tried to suck out, to gain what was the intent of the society, when I heard something about these reports of the Committee of the House of Commons, and so on, and he told me by all means it was to obtain a parliamentary reform upon constitutional principles, in a peaceable manner.

Lord Chief Justice *Eyre*.—Since the report?—Yes.

Where did you see him?—At his own house.

Lord Chief Justice *Eyre*.—Since the report?—Yes; since the report.

Lord Chief Justice *Eyre*.—Recollect yourself?—I saw Mr. Hardy at his own house, it was in the summer, I believe it was since the report of the House of Commons; I am not clear when that report was made exactly to the date, nor will I undertake to swear.

Lord Chief Justice *Eyre*.—Therefore I stopt you, that you might recollect yourself.

Mr. *Gibbs*.—State as near as you can the time?—I think it was some time about the beginning of June, or in May, I am not sure; but I was in the habit of calling upon him as a neighbour when I have gone past.

Do you remember the time he was taken up?—I do not remember the date of it; I remember to have called at Mr. Hardy's, and then I was informed by his wife that he was taken up; she was in a great deal of trouble, and very ill; she was frightened upon the occasion.

She is dead since?—Yes; and she told me but a few days—

You must not say what she told you—you are not sure what the time was when you had this conversation?—I believe in the month of May, to the best of my recollection.

Are you a member of either of these societies?—I never was in my life a member of any political society whatever.

During the time that you have known him, what has been his character, I mean as a peaceable man, or the contrary?—I conceived from my first acquaintance with him, that he was a man of few words, and of a very humble, peaceable disposition, and I have never had any occasion to alter that opinion. I believe him to be a man of an honest disposition, and added to that, if I can judge from a man's conversation, I believe he is one that fears God and honours the King.

You have collected this from your conversation with him?—I have from knowing him, and the general tenor of his conduct.

Have you seen him often?—I have.

You told me you had taken pains to draw from him what his opinions were?—I have

when I first became acquainted with him, and after that, I believe I may say with some degree of confidence, that I was in his confidence as a friend; I believe he looked upon me as a friend.

The rev. *Thomas Oliver* cross-examined by  
Mr. *Attorney General*.

You did not belong to any of these societies?—I did not.

Did you ever see a paper published as the proceedings at Chalk-Farm, with Mr. Hardy's name to it?—I never did.

Did you ever see a paper published as the proceedings on the 20th of January, 1794, with Mr. Hardy's name to it?—I cannot charge my memory that I ever saw it, I do not recollect the contents of it; I trouble my head very little about politics.

Look at that paper? [showing it to the witness.]—I do not recollect that I ever saw the fellow to this paper, or this paper before.

Did you know that Mr. Hardy was a member of a society that had published resolutions in support of Mr. Thomas Paine's Rights of Man?—No; I did not.

Then I need not ask you, I take for granted, whether publishing these resolutions in favour of Paine's Rights of Man, shows the sort of man that you would suppose honours the king? what is your answer to that?—I do not know, nor never did know, that Mr. Hardy did favour those resolutions, or that he published any thing of the kind. As I was going to observe, I have but very little time to meddle with those matters; when I can call upon any person that is afflicted, or any poor person, or any one to do them any good, I am always ready to do it; but I have four sermons to preach in a week, and as I make them myself, I have very little spare time.

Did you ever see the book, called Paine's Rights of Man?—I have seen it, but never read it through.

Do you know that Mr. Paine was a member of the Constitutional Society?—I do not know any such thing.

Do you happen to know Mr. Bogue, a dissenting minister?—I have heard of such a name, but I do not know the gentleman.

Do you happen to know whether he had any correspondence with Mr. Hardy?—Once upon a time, I think, Mr. Hardy mentioned his name, but I do not know that he said he had a correspondence with him.

Did he inform you whether Mr. Bogue had given him any advice about the papers?—Never such a thing was ever mentioned to me by Mr. Hardy.

What did he say to you about Mr. Bogue, the dissenting minister at Portsmouth?—I think Mr. Hardy asked me if I knew such a gentleman, and that he was a worthy good man, or to that purpose.

Did he explain to you at all how he came to know any thing of Mr. Bogue of Portsmouth?—By no means in the world.

So that you visited Mr. Hardy, he informed you he knew Mr. Bogue, a dissenting minister at Portsmouth, and you had not the curiosity to inquire what Mr. Hardy in London, had to do with Mr. Bogue, a dissenting minister at Portsmouth?—No.

Upon your oath, did Mr. Hardy ever tell you that he had or not been down at Portsmouth to visit any convicts on board a ship at Portsmouth?—No.

Nor that he had seen Mr. Bogue upon that occasion?—No, nor any other.

You know nothing of Mr. Hardy's sentiments about Paine's works?—The chief I know of him has been his conversation touching the best things; sometimes he has spoken of politics and parliamentary reform, and that he was a well-wisher to it.

You said you had read Paine's work?—Part of it.

Have you ever read any thing about honouring the king in it?—No.

I think you said you were much in Mr. Hardy's confidence?—I do not know how much, but as a minister may call upon him; it is reasonable to expect they will put confidence in men of our description, when men of character and probity.

Then he never told you any thing about the proceedings of the London Corresponding Society, either at Chalk-Farm or any of those other places?—He did not; I only came to speak as to what I know about Mr. Hardy's character.

Mr. Daniel Stuart sworn.—Examined by Mr. Gibbs.

I believe you are secretary to the Society of the Friends of the People?—I have acted as secretary to the committee of that society.

Meeting in Frith-street?—Yes.

Have you ever happened to see Mr. Hardy the prisoner?—Very frequently.

Upon what occasions have you seen him?—I have seen him many years ago, but never had occasion to speak to him till within something less than two years; about December, 1792.

Upon what occasion did you see him then?—The London Corresponding Society sent a letter to the Society of the Friends of the People; when the letter was answered I carried the answer myself to Mr. Hardy's house in Piccadilly, and delivered it to him, and from that time in passing Piccadilly frequently, I have called in at his shop, merely to converse with him, and to know what news there was.

Had you any conversations with him relative to the London Corresponding Society?—Very frequently.

What did he tell you the object of that society was?—He always told me the sole object of the society was, a reform in the representation in the House of Commons.

Did he ever converse with you upon the way in which he wished that reform to be brought about?

Mr. Attorney General.—That is not a proper question.

Mr. Gibbs.—I ask this in order to sift the mind of the prisoner; the crime imputed to the prisoner is an act of the mind; this case is an anomalous one—the compassing in his own mind the king's death; I am asking as to the conversations he has had upon the subject, in order to find what were his intentions, what the state of his mind was upon that subject.

Lord Chief Justice Eyre.—What the tenor of his conversation was, is, I suppose, your object.

Mr. Attorney General.—I cannot say I think it worth disputing.

Mr. Gibbs.—What were the means by which you understood from him that the London Corresponding Society wished to bring about this end?—I always understood from him, that he thought the best means were to inform the people of the bad state of the representation, and so to gain a number of members to the society, that they might get a great number of signatures to a petition to parliament, by which means a reform might be obtained.

Did you see him at any time after this?—Since that time, till the time that he was taken up, I was in the habit of calling on him perhaps once, twice, or more times in a week; it was very uncertain; principally from curiosity I used to call at his house, and have conversation with him generally about his society, and the other societies that his society were in correspondence with, about what they were doing respecting a reform in parliament; that always made the basis of our conversation.

Did it appear to you, that he reposed confidence in you?—I have not a doubt he did; we talked very freely about a reform and the best means of producing it, and in one point he and I never could agree; he said the duke of Richmond's plan would be the plan at last—I said I did not think it was the best plan; that was the only point we disagreed upon.

Had you any conversation with him concerning this convention that was talked about?

Mr. Attorney General.—This convention that was talked about—not having said one word about a convention.

Mr. Gibbs.—There may be a little irregularity in putting the question, I only want to bring him to the time.

Lord Chief Justice Eyre.—You ought to inquire to be sure, first of all, whether he knows any thing of a proposed convention, and whether he had any opportunity of knowing what the prisoner's sentiments were respecting that convention.

Mr. Gibbs.—Had you ever any conversation with him?

Mr. Stuart.—There is one thing in particular I think it my duty to mention with regard to whether he was likely to confide in me, or tell me his mind.—

Lord Chief Justice Eyre.—You have said

you thought he did put confidence in you?—There was one particular occasion——

Lord Chief Justice *Eyre*.—I do not want to know the private history between you and him; if you say you think he put confidence in you, it is very well.

Mr. *Gibbs*.—Had you ever any conversation with him about any convention?—I do not exactly remember that I had; but I have no doubt that I had.

During the time you have known him, what character has he borne?—From others and from my own observation, I have always thought him a very simple man in his manners; of a very inoffensive, peaceable conduct, and the last man I should have thought that would have been guilty of any violent conduct.

Have you had any opportunity of collecting from him whether it was his object to bring this about by peaceable means, or otherwise?—I have always heard him say he wished it to be brought about by peaceable means; I never heard him mention violent means in my life—quite the reverse.

Mr. *Daniel Stuart* cross-examined by Mr. *Attorney General*

You are secretary to a society calling themselves the Friends of the People?—Secretary to the committee of the society; I never was appointed secretary to the society.

You know there is a society in London called the Society for Constitutional Information?—Yes; I know there is.

It may possibly have occurred to you, as secretary to the Society of the Friends of the People, to know that the latter society rejected all correspondence with the former?—Yes; I know that.

Did you happen to know that the prisoner at the bar was an associated member of that society?—I never heard that he was; I never knew of my own knowledge who were members of either the London Corresponding Society, or the Society for Constitutional Information.

Then you being secretary to the committee of the Society of the Friends of the People, and the Society of the Friends of the People having rejected all correspondence with the Society for Constitutional Information, you did not know that the prisoner was an associated member of the Society for Constitutional Information?—I never knew it in my life.

Do you remember a letter being written by your society to the Society for Constitutional Information, from lord John Russel?—Yes.

Do you remember any correspondence between your society, the Friends of the People, and a society at Sheffield?—Yes, I do.

Do you recollect whether that was in the month of May, 1792, or not?—Yes; I think the first letter received from Sheffield was in the month of May, 1792,

Do you happen to know, that the society at Sheffield, in the month of May, 1792, wrote a letter to the Constitutional Society, whose correspondence your society had rejected, saying, they would have nothing more to do with the Friends of the People, because they were not pursuing the principles of the rights of man?—I know nothing of that at all.

Do you recollect what were the reasons why the Society of the Friends of the People would have nothing more to do with the Society for Constitutional Information?—I believe the reasons are assigned in the letter that was sent in answer.

With reference to their having recommended Mr. Paine's great plans of reform?—Yes; I believe that is in the answer.

Do you happen to know, that the London Corresponding Society have been going upon the same plans of reform?—I cannot exactly say that I did.

Did you ever see the London Corresponding Society's address of the 6th of August, 1792?—I cannot say I ever saw it.

Did you ever see an address of the London Corresponding Society of the 20th of January, 1794?—I have.

Have you seen the London Corresponding Society's resolutions at Chalk-farm?—Yes, I have.

They wrote to your society about a convention, I believe?—They did.

You rejected that?—The society declined it.

I believe your society had some correspondence with the London Corresponding Society; during all these proceedings, do you recollect any application they made to you to know the principles of your society?—I think there was a letter, not exactly to know the principles of the society, but to know the plan they meant to adopt.

Did your society inform them what length they meant to go at that time?—I believe they declined to inform them.

Do I understand you right, that you never heard of the prisoner's being an associated member of the Constitutional Society whose correspondence your society had rejected; that you knew nothing of the address of the London Corresponding Society of the 6th of August, 1792; that you knew nothing except what you have learned now of the proceedings of the 20th of January, 1794, and of the proceedings at Chalk-farm?—Nothing more.

Look at this printed paper [showing it to the witness]: is this an account of the proceedings of your society?—This seems an authentic copy of the proceedings of the society I belong to.

As you were secretary to the society, you can inform me whether the gentlemen, whose names appear here, are all members of the Society of the Friends of the People?—I believe not all of them; some have withdrawn, and some new members have been added to this society, since that list was made.



You are aware of the fact, supposing it to be a fact, that after the Society of the Friends of the People had rejected correspondence with the Constitutional Society, by their letter, that some individuals still remained members of both societies?—Yes; I do not exactly know farther than from report, who were members of the Constitutional Society, but from the evidence I certainly believe that there were gentlemen who were members of both.

*Mr. Daniel Stuart re-examined by Mr. Gibbs.*

What objections did the Friends of the People take to that letter which was sent to them?—I really cannot say what objections; at the time that letter was sent, it was in the beginning of the society, and at that time I was never present at the meetings of the society, or the committee, and cannot form any opinion of any other objections than what are stated in the letter.

*John Carr called.*

[This witness was sworn, according to the form used in the church of Scotland, holding up the right hand, repeating these following words:

"I, John Carr, do swear by God, and as I shall answer to God, at the great day of Judgment, that I will speak the truth, the whole truth, and nothing but the truth; so help me God."]

*Examined by Mr. Gibbs.*

Are you a member of either of these societies?—I am not.

How long have you known Mr. Hardy?—Upwards of twenty years

Have you known him well during that time?—Yes.

What character has he borne during that time?—The character of a sober, peaceable, honest, worthy man.

From what you know of his character, is he a man at all likely to raise any disturbance, or commit any acts of violence?—Never.

*Mr. Attorney General.*—That is a question never put.

*Mr. Gibbs.*—It is a question I never heard any objection to.

*Lord Chief Justice Eyre.*—I have often heard it put, and often heard it objected to; it is certainly not a strictly regular question; you are to ask his general character, and from thence the jury are to conclude, whether a man of such a character would commit such an offence; at the same time, in justice to the question, I must say I have known it asked a hundred times; I have very often myself objected to it.

*Mr. Garrow.*—If it had not been for the observation that it never was objected to, it would not have been objected to.

*John Stevenson sworn.—Examined by Mr. Gibbs.*

What are you?—A coal-merchant.

How long have you known Mr. Hardy?—About eight or nine years, as near as I can recollect.

Are you a member of either of these societies?—I never was.

What character has Mr. Hardy borne during the eight or nine years you have known him?—I have always esteemed him as a man of a mild, peaceable disposition.

Have you known him well during that time?—Yes; during seven years of that period he was with Mr. Barclay, who makes shoes and boots for me, and I had occasion to see him frequently in his master's business; he always behaved with great uprightness as far as I had occasion to observe him, and I always esteemed him a man of a peaceable, mild, disposition, and, as to moral character, I know no man that goes beyond him.

Has that been his general character?—It has been as far as I ever knew, I never heard any thing to the contrary.

*Alexander Gregg sworn.—Examined by Mr. Gibbs.*

What are you?—A bookbinder.

How long have you known Mr. Hardy, the prisoner?—Seven years last May.

Have you lived in the same house with him at any time?—No, never.

Have you known him intimately?—Yes.

What has been his character during those seven years that you have known him?—Always a very sober, industrious, rather a religious man than otherwise.

Has he been a peaceable, orderly man?—As far as ever I saw.

Have you known him well during this time?—Yes; as a neighbour, constantly.

Is this his general character?—It is, as far as I ever heard.

*Mr. Attorney General.*—Were you a member of the Corresponding Society?—I never entered the threshold of the door of any of the societies.

*William Henderson sworn, by holding up the right hand.—Examined by Mr. Gibbs.*

What are you?—A dealer in eggs.

How long have you known Mr. Hardy?—Near about twenty years.

Have you known him well during that time?—Perfectly well; I have been intimately acquainted with him for twelve years.

What character has he borne during those twelve years?—An universally good character, for any thing I ever heard of him; a sober, honest, sedate, religious, good man.

Is he of a peaceable disposition?—I never knew to the contrary.

Are you a member of either of the societies?—No.

The rev. James Stevens called.

[This witness was sworn, holding up the right hand, repeating these following words;—

"I swear, in the name of God, as I shall answer to God in the day of Judgment, that, in this case, I shall tell the truth, the whole truth, and nothing but the truth."]

Examined by Mr. Gibbs.

You are a minister, I understand?—I am.

How long have you known Mr. Hardy, the prisoner at the bar?—Ever since I came to London; seven years.

Have you known him well, during that time?—Pretty intimately.

Has he attended your congregation?—Regularly; he was a member of the congregation before I came to it, and has continued so ever since.

During the time you have known him, what character has he borne?—A very respectable character.

In all respects?—So far as I was connected with him as a member of a religious society.

As far as you know him, he has deserved that character?—Yes.

What is his general character?—His general character, in our congregation, is much to his honour as to his moral conduct, and as being a peaceable member of a christian society; and he is believed, by all in that society, to be a man of conscience, both towards God and man.

Mr. Attorney General.—You are not a member of the Corresponding Society, I believe?—I never was a member of any political society.

Peter Macbean sworn, by holding up the right hand.—Examined by Mr. Gibbs.

How long have you known the prisoner at the bar, Mr. Hardy?—I have known him these seventeen years.

What are you?—I am a shoemaker.

During these seventeen years have you known him well?—Very well; I have been very intimate with him.

During that time what character has he borne?—A very amiable character indeed, both civil and religious.

Do you speak from your knowledge of him?—From my own knowledge.

What is his general character?—A peaceable, quiet, well disposed man.

Are you a member of either the Constitutional or the London Corresponding Societies?—No.

Peter Macbean cross-examined by Mr. Attorney General.

How long have you ceased to be a member?—I have ceased to be a member these two years, I believe; through an indisposition I was laid up with the gout, which confined me six months.

What division did you use to attend?—When I did attend, I attended the division No. 8.

Where did that meet?—At the Blue Posts in the Haymarket.

Did you ever attend any other division?—I attended, but not regularly; I attended in Mr. Hardy's division, No. 2.

Where was that?—Proctor's, in Covent Garden; I was there only once.

Do you remember coming to any resolution about Paine's Rights of Man?—No, not any.

When did you cease to be a member of the society?—About two years ago; I cannot recollect the month.

Do you remember your society writing to the society for Constitutional Information, to desire you might have some members associated with them?—Perhaps I might.

Do you remember your society subscribing to Mr. Paine's?—No; my division never did.

So then you do not recollect any thing about the society having any thing to do with Mr. Paine's Rights of Man?—Not in the least; that was at the end of our meeting.

Did you ever meet in Exeter-street?—Yes.

Who was your delegate there?—We had no delegate there.

Was not that a meeting of delegates at the Bell, in Exeter-street, at the beginning of the society?—No; we divided from the Bell.

Before you divided from the Bell, who was your delegate from that division?—We had no delegates at all; we were no ways formed.

You belonged to it at the very first?—Yes.

Who was your chairman at the first meeting?—I am not sure; I cannot recollect whether it was Margarot, or whether it was somebody else; I really cannot possibly say.

You knew Margarot very well?—Yes.

He was a man of a very peaceable, civil disposition?—He was, so far as ever I knew; I had very little acquaintance with Mr. Margarot.

Do you recollect who were the other members, at the first meeting at the Bell—was Mr. Hardy one of them?—Yes.

Do you recollect any other person who was one of the first members of the London Corresponding Society?—Yes; there was one of the name of Black, and several others.

Give me another name?—And Mr. Gow; he is dead and gone.

Do you recollect any body else?—I cannot recollect any more.

How many were you altogether—what was the number that met at first, at the Bell, in Exeter-street?—Sometimes there were more, sometimes less.

But what was the greatest number that ever met there?—There might be thirty, or forty, or more.

Do you mean to swear that you do not remember any more than thirty or forty.

Lord Chief Justice Eyre.—How many?

the first time?—The first time I was not there.

Mr. *Attorney General*.—The first time you were there; how many were they, to the best of your recollection?—There might be, possibly, twenty.

You are sure Margarot was one of them; you are clear about that?—I think so; I could not be positive.

You are sworn to speak the whole truth; I desire to know the names of all of them that you recollect?—There was a Mr. Merry, I recollect.

Who else?—A Mr. Dowling.

Had you no clergymen among you?—Not any, that I know of.

Had you any physicians among you?—I cannot say we had.

Any gentleman of any other profession among you?—I do not know that we had.

Upon your oath, can you recollect nobody else, but those you have named?—I cannot.

How many divisions were there of the society, at the time you left them?—I could not, positively, say any thing, as to how many there were.

Were there two or three, according to your knowledge?—O, there must be more than that.

What was the number of the society, at the time you left it, taking in all the divisions that belonged to it?—I cannot say any thing to that.

As you belonged to the society originally, who drew up your original code of laws?—I believe Mr. Margarot was the principal man.

Was any body else employed along with Mr. Margarot to do it?—Possibly there might be; I do not recollect who was.

Upon your oath, do not you recollect who it was that was to draw up your original laws?—No; I cannot recollect.

Did you ever visit any body in the neighbour-

What character has he borne during that time?—A sober, honest, industrious, and peaceable man.

Is that his general character?—I never knew him to be otherwise.

Are you a member of either of the societies?—I never was.

*Alexander Gordon*, cross-examined by Mr. *Attorney General*.

Were do you live?—In Union-street, in the city.

You do not live in Aldersgate-street, No. 91?—No.

Do you know any body of your name that lives there?—I do not.

*John Bogue*, called.

[This witness was sworn, holding up the right hand, repeating the following words:

“I do swear, in the presence of Almighty God, and as I shall answer to God at the great day of Judgment, that the evidence I shall give to the Court and jury, between our sovereign lord the king, and the prisoner at the bar, shall be the truth, the whole truth, and nothing but the truth.”]

Examined by Mr. *Gibbs*.

What are you?—A carpenter and cabinet-maker.

Where do you live?—In King-street, Golden-square.

How long have you known Mr. Hardy?—Ten years.

Have you known him well since that time?—Yes; I have known him to be an industrious, an honest, and a christian man, I believe.

What is his general character?—What I have said.



way your way of taking the oath?—I have taken it that way before, it is the way I have taken it since I came into this country.

Do you feel the obligation of an oath taken in that way?—Yes I do; I am perfectly satisfied with it this way.

Mr. *Gibbs*.—How long have you known the prisoner?—Upwards of five years.

Have you known him well during that time?—Yes; I have done business with him.

What character has he borne during that time?—A strictly honest character, an upright peaceable man, as any in the world; I have had occasion to call upon him often.

Have you known him well?—Perfectly well.

What is his general character?—A very peaceable man, a strictly honest man, particularly so.

Has he ever talked with you upon what was the object of the London Corresponding Society at all?—He may have mentioned it, but our conversation was entirely upon business.

You have not had any conversation with him on the subject?—He might have mentioned it, but not particularly.

Mr. *Attorney General*.—You are not a member of the London Corresponding Society?—No, I never was.

*James Hardy* sworn.—Examined by Mr. *Gibbs*.

What business are you?—A grocer.

I believe, you are not a relation to Mr. *Hardy*, the prisoner?—No.

Where do you live?—In Smithfield.

How long have you known the prisoner?—Ever since the year 1779, or 1780.

Have you known him well?—I know him by being a neighbour of his.

From the year 1780, to the present time, what character has he borne?—I never heard any but the best of characters, a quiet, peaceable disposition.

Has that been his general character?—From what I know of him it has.

And from what you have heard of him?—And from what I have heard of him.

Mr. *Attorney General*.—Were you a member of any of those societies?—Never.

[It being now twenty minutes past twelve o'clock, on Sunday morning, the Court adjourned to eight o'clock, on Monday morning.]

*Session House in the Old Bailey, Monday, November the 3rd, 1794.*

PRESENT,

Lord Chief Justice *Eyre*, Lord Chief Baron *Macdonald*, Mr. Baron *Hotham*, Mr. Justice *Buller*, Mr. Justice *Grose*, and others his Majesty's Justices, &c.

*Thomas Hardy* set to the bar.

Mr. *Erskine*.—My lord, I would now state a fact, which probably the attorney-general will admit.—Your lordship, and the jury, will

recollect, that in the course of the evidence, a letter was proved to have been written by one *Davison*, at *Sheffield*, to the prisoner at the bar, Mr. *Hardy*, enclosing a letter (which letter was also read to the jury), which was requested to have been forwarded by the prisoner to *Norwich*, for purposes similar to that for which *Davison* is supposed to have sent it; I wish to prove, by a gentleman now in my eye, if the fact is not admitted, that that letter was found in Mr. *Hardy*'s possession unopened.

Lord Chief Justice *Eyre*.—The material observation arising upon it is that it was unsent, because he had no business to open it.

Mr. *Erskine*.—It is a strong circumstance that it remained unopened and unsent, for such a length of time.

Lord Chief Justice *Eyre*.—Its being unsent is, I think, a strong circumstance indeed, but its being unopened I do not think amounts to much.

*John King*, esq. sworn.—Examined by Mr. *Erskine*.

Did you find the letter in the possession of the prisoner, when he was taken into custody, which has been given in evidence, in an enclosure?—No; I did not find any of the letters, they were all taken away by the people who came.

Did you see them?—I saw them.

Was the enclosure of the letter, that was directed to *Norwich*, open or not?—I cannot exactly speak as to that fact; but I remember the messenger, while he was marking the paper, said, "here is a letter unopened," I suppose that to be the letter.

Who was that person?—I think it was *Gurnell*.

You recollect the messengers taking notice that there was a letter then unopened?—Yes; which I understood to be a letter, enclosed in another letter. I said, "open that letter and mark it the same as the rest."

*David Martin* (sworn).—Examined by Mr. *Erskine*.

What is your trade?—An engraver.

Where is your place of residence?—At *Sheffield*.

How long have you been an inhabitant of *Sheffield*?—About twelve years.

Have you carried on trade during that time?—I have.

Were you a member of the *Sheffield Society*?—I was.

When did you become so?—Within about three months from the time of its commencement.

Up to what time did you continue a member?—Till the time that Mr. *Carnage*, and other persons, were taken up; that is, I have not attended at the society since.

What was your object in being a member of that society?—For the purpose of obtaining a reform in the *Commons House of Parliament* by legal and constitutional means.

That was your own object?—It was.

I ask you, upon your solemn oath, and the truth is better than all other things, from all that you observed, and heard, and saw, in the course of your attendance upon that society, had you any reason to believe, or have you now, before God, any reason to believe, that their objects were different from your own?—By no means.

Did you ever see any thing pass, or did you hear any thing that led you to believe, or that leads you now to believe, that there was an intention to attack the government by armed force and violence?—Not the most distant idea of it.

Were you a member of the Sheffield Society at the time it sent its delegates to Scotland?—Yes, I was.

From what passed in the society, upon that occasion, what was your object in sending your delegate; what was he to do?—For the purpose of co-operating with the other delegates from the different societies, in order to produce the object I have already mentioned.

By what means did you intend, or contemplate, that this end was to be accomplished?—By a petition to parliament.

What was the reason, after the petition brought forward by Mr. Grey had been rejected, for having delegates? what did you expect would be the consequence of a petition from delegates?—I do not perfectly understand you.

What good effect did you expect to arise from sending delegates in order to have a petition from large bodies of people?—The effect of a general co-operation of the great body of the people, the effect of the general sentiment.

What effect did you expect that sentiment to produce? did you expect it to make an impression upon the parliament so as to induce them to grant the redress applied for?—Yes.

You expected that the general sentiment of the people, as far as you could collect it, would make an impression upon the parliament, and produce that effect?—I did.

I ask you solemnly, upon your oath, whether it was in your contemplation, or from what you heard and saw in the course of the debates and proceedings, as far as you are acquainted with them, whether it was the intention of those delegates to contrive means by which parliament should be compelled to grant it?—By no means.

Would you have remained a member of the society if you had reason to believe or suspect that that was the object?—I certainly would not.

Was any thing said, or did you collect from the general objects of your society, that it was their intention to affect the king's majesty, either in his person, or his state and dignity?—Certainly not.

Was there any intention that you could collect (I am not asking your ideas or imagination) from what passed in your hearing in

the course of the proceedings of the society, to touch the Lords House of Parliament?—Certainly not.

Were you at the Castle-hill when Mr. Yorke made a speech there?—I attended the latter end of the meeting; but I heard very little of it.

I take for granted that every now and then a hot spirit might show itself?

Lord Chief Justice *Eyre*.—Do not take any thing for granted when you are examining a witness.

Mr. *Erskine*.—I will not ask any more questions; I am quite satisfied with what he has said.

*David Martin* cross-examined by Mr. *Attorney-General*.

Have you lived at Sheffield for some time?—I have.

Who were the persons who principally managed the business of the society at Sheffield?

—A committee was chosen occasionally from the society.

Do you know a person of the name of Gale?

—I do.

He was a printer at Sheffield?—Yes.

He was an active man in the Society?—He was.

What is become of Mr. Gale?—I cannot tell.

Is he at Sheffield now?—I believe he is not.

Upon your oath do not you know he is not?

—I cannot possibly say; I have not seen him.

Have you called at his house within these two months?—I have at the house which lately was Mr. Gale's; he has now, I believe, no house in Sheffield.

You were made an associated member of the Constitutional Society in London, so long ago as March, 1792, were you?—I believe so.

Was that done with your knowledge?—Yes; I believe it was.

Did the people at Sheffield write to London to desire that at the request of any body in this part of the world, or not?—Not that I know of.

Whose proposition was it that you should write to town to become members of this Constitutional Society?—It was a proposal in the committee.

Do you recollect who made it?—No.

Do you recollect a letter being read in the committee that night, desiring you to propose it?—I do not recollect it.

Do you recollect a letter from the London Society being read in the committee, desiring that you might propose that you should become associated members of the society?—I do not particularly recollect.

Particularly recollect! do you recollect any thing about it?—I cannot take upon me to say.

Will you say you do not recollect?—I do not recollect.

You were not acquainted, I believe, with

the particulars of the conduct of the convention in Scotland, were you?—No farther than what appeared in the public newspapers.

What newspapers are you speaking of?—The Edinburgh papers.

What, the paper called the *Gazetteer*?—Yes.

Then am I to understand you, that you know of the proceedings of the convention, as they appeared in that *Gazetteer*?—I have heard them read.

Then you approved of the proceedings as they appeared in that *Gazetteer*, did you?—Not altogether.

What part of them did you disapprove of?—Particularly that part relating to a secret committee.

Had you a secret committee at Sheffield?—No.

You had not got so far as that?—No, nothing of the kind was ever entertained.

You say you were at the Castle-hill?—I was at part of the meeting; at only the latter part of the meeting.

Do you remember that when somebody proposed to petition the House of Commons, it was negatived, and it was determined to petition the House of Commons no more?—I was at the outside of the people, and therefore could not hear the proceedings.

You would probably have disapproved of that resolution, if you had heard it?—Perhaps I might.

So I should have supposed—you know Mr. Yorke?—I do.

Was he a Sheffield man?—I believe not.

What brought him to Sheffield?—I cannot tell.

Had you much acquaintance with him?—No acquaintance previous to his first coming to Sheffield.

You knew a great deal of him, I believe, after he did come?—I frequently have heard him speak in private, and in public.

You were very intimate with him, were not you?—I cannot say I was very intimate.

Were you very often with him in private?—I was.

Having been very often with him in private, you and he had both the same opinion about obtaining a reform by peaceable means?—I cannot say we had altogether.

What was the difference between you?—I cannot recollect exactly; with respect to a reform in parliament, we differed in many other circumstances respecting political matters, but with respect to the specific difference I cannot at present recollect.

Do you know who the editors of the *Patriot* were?—I do not.

Upon your oath do not you?—I do not.

Did you never hear who were the editors

of that paper?—No, I never did, only what public report has said; I never heard who were but merely by public rumour.

Did you ever hear by public rumour, or otherwise, who were the editors of the *Patriot*?—I have heard it said that certain persons were editors of the *Patriot*.

Who did you hear it said were editors of the *Patriot*?—Mr. Brown was mentioned as one person.

Do you know Mr. Brown's hand-writing when you see it?—I believe I do.

Mr. Brown was your delegate to the convention, was not he?—He was.

He was a peaceable well-disposed man?—We believed so.

Do you remember your society having any communication with a society at Stockport?—Letters have occasionally passed.

Have you seen their letters in your society?—I have seen some letters, but do not particularly recollect any of them.

They were also peaceably disposed, and associated for the same end as yourself, no doubt?—We believed so.

Tell me whether that [showing the witness a letter] is Mr. Campbell Brown's hand-writing or not, according to your belief?—I believe it is.

You know upon the Castle-hill, that there was a motion made to petition the House of Commons?—Yes.

Upon your oath were you in the secret that that motion was made, by contrivance, to be negatived?—I was not.

Do you know it now?—I know it by seeing it mentioned in the public papers.

You know it no otherwise?—I have heard it spoken of generally among people that they supposed so.

At the time you attended the meeting, you did not know that that was a contrivance?—I did not.

And many hundred others of you, I suppose, did not?—I believe so.

*David Martin* re-examined by Mr. *Erskine*.

When you say the motion was negatived for petitioning parliament, do you mean to say it was negatived to petition parliament ultimately by the delegates, when they got the sense of a larger body of the people?—I understood the not petitioning parliament, applied to the present parliament, the present House of Commons.

Whatever Mr. Brown Campbell, or Mr. Campbell Brown might write, or whatever he might think, or whatever he might do---did your society give him any authority to act for you at Edinburgh, except in a legal and constitutional manner?—By no means.

I do not care whether he acted legally or not, but did your society give him authority, confining him within the limits of legal and constitutional behaviour?—They certainly did.

Would you have consented to the sending of him to Edinburgh, if you had believed that

\* See in Vol. 23, of this Collection, the case of captain Johnston, p. 43, and that of A. Scott, p. 383.



he would have transgressed the rules of law?—I would not.

You might be mistaken undoubtedly; but I wish to know whether you acted with the intention that you have stated to us?—I certainly did.

Lord Chief Justice Eyre.—Were the proceedings at the Castle-hill published?—They were.

Lord Chief Justice Eyre.—Was Mr. Yorke's speech published likewise?—Yes; the proceedings, including the principal part of Mr. Yorke's speech.

Lord Chief Justice Eyre.—Do you mean that speech?—The speech which was afterwards published.

Mr. Erskine.—Which has been read in court?

Lord Chief Justice Eyre.—And you have read that speech?—Yes, I have seen it.

Edward Oakes sworn.—Examined by Mr. Erskine.

What are you?—A plater.

An inhabitant of Sheffield?—Yes.

A housekeeper there?—I am not a housekeeper; I live with my father.

What is your father?—A grocer.

Were you a member of the society?—I was.

From what time to what time?—I think from the year 1791, to the present time.

Did you attend frequently the meetings of the society?—Yes, I did.

Did you attend them what might be called regularly?—I did in the general; I was not at every meeting.

But in the general you were a good attendant?—Yes.

What was your object?—My object in joining the society was this; if by lawful and constitutional means, in co-operation with the rest of my brethren, we might be able to gain a reform in parliament.

How did you expect that that co-operation with the rest of your brethren would produce that consequence?—We expected that our petitions would be heard.

Did you expect more effect from petitions which might afterwards be presented, under a delegation from large bodies, than might be procured by the petitions of a small number?—Yes.

Did you consider that such petitions from delegates of large bodies of people, were more likely to impress parliament with the policy and justice of the measure?—I did.

Was it your intention, as far as you must be acquainted with your own objects, if you were disappointed in the effect which you expected, to use force or violence?—

Mr. Attorney-General.—Please to ask him what his intention was.

Mr. Erskine.—Be so good as to hear the question out. I do not like to be interrupted in the middle of a question.

Lord Chief Justice Eyre.—You have not

asked the witness one question yet which has not been irregular.

Mr. Erskine.—How am I to ask a witness a question, touching a particular point, without leading him, in some measure? I do not mean to put the answer in his mouth; I will pursue the question in the very way I was going to do, and will argue it with the gentlemen.

Mr. Attorney-General.—It is not worth arguing.

Mr. Erskine.—Then it is not worth interrupting me in this way. If the petitions, the success of which you contemplated, should not have been attended with effect, was it your object to use force?—No, never.

Would you have remained in the society, if you had had any reason to believe that that was the object of others?—I would not.

From what passed in the society, when you were present at their meetings, what did you collect to be their object?—I never understood that the object of the society, as a body, or as individuals, was any thing more than a reform in parliament; and they did not, as far as I knew of them, desire, in the least, to gain this object by any other means than by petitioning parliament.

Were you present, upon the Castle hill, when a petition to parliament was rejected, and a petition to the king put in the room of it?—I was.

When that petition to the House of Commons, was negatived for the present, was it determined, at no future time, to petition parliament, when you had got the sense of a larger body of people?

Lord Chief Justice Eyre.—Do you know what the terms of the resolution were?—I do not recollect at present.

Mr. Erskine.—His lordship, I suppose, does not ask as to the words, but if you know the substance of it?—I do not know that the resolution was, stating that parliament should never be petitioned again.

Did it refer to that time, or to all times?—I rather think it particularly referred to that time only.

Were you in the society at the time when it was proposed to send a delegate to Scotland?—Yes, I was.

Did the proposition to have a convention in Scotland, and to have delegates sent to it, come to your society from Scotland, or did you send to it?—I do not recollect.

When you sent your delegate, what was the object of the society, as far as you collected it from what you heard upon the occasion; I am not asking your ideas and notions in sending Mr. Brown to Edinburgh?—The object of the society, as far as I knew of, in sending Matthew Campbell Brown to Edinburgh, was, in order that proper measures might be considered of, for the purpose of gaining a reform in parliament.

Was Matthew Campbell Brown, as delegate from your society, to express the sense which your society had?—He was.

Was it the object of your society that your delegate should express your idea?—It was; I dare say our delegate would have been recalled from the convention, if any other object had been proposed.

Was he directed to pursue the object which the society expressed?—He was.

When the delegates, from the different societies had got together, what were they to do?—They were to point out the proper way of addressing parliament unknown to us.

Lord Chief Justice *Eyre*.—Did you say unknown to us?—Of addressing parliament in a constitutional way, that might not altogether be thought upon by us; we thought them persons more capable of judging of the most effectual way of addressing parliament than ourselves.

Mr. *Erskine*.—What effect did you consider might be produced by having delegates assembled, peaceably, from very large bodies of people—what effect did you contemplate that would have with parliament?—We supposed that petitions coming from so respectable a body as we thought them, would have considerable weight with parliament.

Did you think that petitions, coming from delegates, from a great body of people, would have more effect than a petition from a small body?—We did.

Did you contemplate that, by the pursuit of the same peaceable means, parliament might ultimately yield, from a sense of justice, to your wishes?—That was our ultimate expectation.

From any thing that passed in your society, was there any thing in contemplation against the king?—Not against the king.

Against his title, or office?—Nothing against his title, or office, or life.

Was any thing said, when the delegate was sent to Scotland, concerning the House of Lords?—I do not particularly recollect whether there was or no.

Did the object of your society extend farther than the representation of the people in the House of Commons?—I believe not.

When did you first hear, what we have heard a good deal of in this court, of any arms, or pikes?—I do not particularly recollect the time; it was a few months back.

Just a little before Mr. Camage was taken up, was not it?—Not long before.

Do you recollect whether the society, or any part of it, had been insulted, or threatened?—Yes, I recollect very well, the society had very great apprehensions of danger from the opposite party, because the opposite party had given them cause to fear, by their repeated threats to the society, and by the ill usage that some of the members of the society had met with from them.

Do you mean, by the opposite party, the magistrates?—No, by no means the magistrates, but individuals, who took upon themselves an authority which we thought they had no right to.

Do you recollect whether that was complained of in the society, and whether any danger was thought of?—It was complained of in the society, as a thing that was thought by the society not right.

I ask you, upon your most solemn oath, whether there was ever any thing passed in the society, for arming it as a body, for an attack upon the government of the country?—I am sensible in whose presence I now stand, and I desire to speak the truth, the whole truth, and nothing but the truth; and, in the presence of God, I can solemnly affirm, upon my oath, that that never was designed, never agitated, and, I believe, never thought of in the society, to arm as a body, to attack government.

If any such idea had ever occurred to any wicked man, or wicked men, in your society, have you reason to believe that you should have known it?—I should.

I do not ask you what any wicked man, in his own private mind, might have intended, but if it had been the object of your society, or any number of them, do you believe you should have known it?—I believe I should.

*Edward Oakes* cross-examined by Mr. *Bower*.

Be so good as to remember, when you answer my questions, that you have spoken about the solemnity of your oath.—You have been a member of the Sheffield Society, you say, from the year 1791?—I have.

Have you been intimately acquainted with the proceedings of that society?—Yes.

You stated that, I think?—Yes.

Had you a committee of members of your society, who managed for the society?—Yes.

Were you a member of that committee?—Yes.

Were you there at the time when twelve members were sent, or intended to be sent, from the Constitutional Society at Sheffield, to the Constitutional Society in London?—I never was present when any such thing was ever proposed.

Do you not know, in fact, you that were intimate with all the proceedings of the society, that twelve members were deputed from Sheffield, to be elected members of the Constitutional Society, in London?

*Oakes*.—To be elected members?

Mr. *Bower*.—Yes?—I do not know that I was present.

If you mean to turn any thing upon the word elected,—to be sent, to have a communication with them?

*Oakes*.—To be deputed, to be sent from Sheffield to them?

Mr. *Bower*.—Yes?—No, I never was at any meeting where there was such a proposition made.

Were they to be associated, any of your members with the society in London?—I do not know that they were, in any wise, to be associated to them, any farther than by correspondence.

Were they then to be associated by correspondence?—In order to co-operate with each other, for the purposes I have mentioned.

Were you there then, when it was agreed, or settled, that twelve members of your society should be associated with the London society, for the purpose of correspondence?—I do not recollect whether I was or not.

Did you never hear in the committee, that such a step had been agreed upon?—I cannot particularly answer to that.

I beg you would recollect yourself, whether you do not recollect that such a circumstance happened; do you mean to say it did not happen?—I do, by no means, wish to insinuate that it did not happen; but I do not recollect whether there was any such proposition made.

Do you not believe the fact, that such persons were associated?—I do not believe that there was.

Do you know, whether any proposal that was made about associating members of your society, came from London, or was at first proposed from Sheffield?—Indeed I do not know.

Did you constantly attend the committees?—I did not.

And you never heard, either before or after such a measure, that it had actually taken place?—I did not.

Lord Chief Justice *Eyre*.—Did your committee take your proceedings down in writing?—Sometimes.

Lord Chief Justice *Eyre*.—Did they keep a regular account?—Not a regular account.

Mr. *Bower*.—What are become of those proceedings that were put into writing at those committees?—Indeed, I am perfectly a stranger to them; for at the time the persons were apprehended and taken from Sheffield to London, I did not, at that moment, or at that time, attend the committee; so that I cannot answer for any thing that the committee did in my absence.

In whose custody were the proceedings that were put into writing usually kept?—By William Broomhead.

You said, you expected your petitions would be heard; were you present, when that resolution passed which we have been talking of, when it was resolved not to petition parliament any more?—I was.

Were you present when any letter was written from the Constitutional Society at Sheffield, to the Society for Constitutional Information at London, respecting a radical reform of the country, the 14th of March 1792; that is long subsequent to the time of your becoming a member?—Unless I was to know the contents of the letter I cannot speak.

I will show it you; do you know a man of the name of Samuel Ashton?—Yes.

Was he an active member of your society?—He was at the first period of it.

Up to what period?—I do not know.

Where is he now?—Indeed I do not know.

Is he at Sheffield?—I apprehend not; I believe he is somewhere in the country.

Did he correspond with the London Corresponding Society, in the name of the Sheffield Society?—Yes.

Is that letter [showing it to the witness] Ashton's hand-writing?—I cannot answer to it.

You must have seen him write frequently in the society?—When he was an active member of the society, I was not an active member.

Have you never seen Ashton write, upon the solemn oath to which you have appealed?—I never saw him write any letter to any correspondent.

Have you seen him write upon any subject?—I do not recollect whether I have or not; I have seen him write, but not to examine his writing.

Mr. *Erskine*.—You may take it to be Ashton's hand-writing; I am going to call a witness to prove Ashton's hand-writing.

Mr. *Bower*.—What is Samuel Ashton?—I believe he was originally a painter.

What is he now?—I suppose now he has obtained a patent, for the purpose of tanning leather.

You do not know where he is now?—I do not.

You may look at the contents of that letter, and tell me, whether you know of that letter being sent to London?

[The witness reads the letter.]

Now you have read that letter; upon your oath, you know of that letter being sent to London?—I cannot answer to that.

Do you believe you did; I will try you first in that way, because I advise you, that we know more of this than you are aware of, and therefore be cautious; upon your oath, in the first place, do you believe, or not, that it was sent?—At the time that this letter was wrote, I was not an active member, nor admitted into their meetings.

Did you at any time after you became a member, know that that letter had been written?—The letters were not altogether known to the society at large: therefore I am not able to answer.

There is one thing in which you are inaccurate; but I do not want to surprise you; you stated in your examination, that you had been a member of this society in 1791; this letter is dated the 14th of March 1792, and of course must be written at the time you were a member?—Yes.

Then though you had been a member from 1791 to March 1792, you did not know of that letter being written?—We as a body, appointed representatives for us; and therefore we entrusted to them to transact our business, as they knew our views.

Was any report ever made to the society, of what the committees had been doing?—Yes, at times there were.

About what periods; once a fortnight, &



month, three months, or at about what intervals?—Sometimes they were often made, and sometimes not.

What was the time that was oftenest—was it once a week?—No.

Once a fortnight?

Lord Chief Justice *Eyre*.—Had you any fixed time?—We had not.

Mr. *Bower*.—Upon your oath, do you ever remember a report being made of the proceedings about the period of the 14th of March, 1792?—Indeed, I am not able to answer to that; I cannot recollect.

You say, in that letter, that it is upon the principle of the Rights of Man; had those books been received in your society as the principles upon which you were to act, Paine's Rights of Man?—They had been introduced into the society before they were proved to be a libel.

Your principles, however, that you state, are the right to a thorough reformation---a radical reform of the country, upon a system consistent with the rights of man. Were the rights of man described in that book and this letter?—I do not know whether this letter particularly means the Rights of Man, as particularly wrote by Mr. Paine.

Mr. *Attorney General*.—Read up that sentence: “If the Society for Constitutional Information in London, should vouchsafe so far to notice us, as to enter into a connexion and correspondence with us, it cannot fail of promoting honour, and adding strength to our feeble endeavours, and to the common cause, which is the entire motive we have in view.”

Mr. *Erskine*.—Begin at the beginning, and read the whole letter.—The gentlemen of the jury will be so good as to take down the date of this letter; it is the 14th of March, 1792.

Mr. *Attorney General*.—That is not the letter we meant; but you may read that.

Mr. *Bower*.—This is not the paper that I am examining to; but I have no objection in the world to his reading it.

Mr. *Erskine*.—I have no wish to consume the time of the Court; I only wish the jury to take down that date, the 14th of March, 1792, because I have a witness to call in a few minutes.

Mr. *Bower*.—As you desire to have it read, let the witness read it aloud. [The witness read the letter aloud.]

“Sir:—It is now about four months since this society first formed itself into a regular body, then but very few in number; the enclosed will inform you of their increase, and which, is most probable, will soon become very numerous; and not only this large and populous town, but the whole neighbourhood, for many miles round about, have an attentive eye upon us; most of the towns and villages, indeed, are forming themselves into similar associations, and strictly adhere to the mode of copying after us; you will easily conceive the necessity for the leading members of this body, to pay strict attention

to good order and regularity, and the need we have of consulting and communicating with those who are sincere friends, and able advocates for the same cause; for these reasons, we took the liberty of writing to Mr. Horne Tooke, that worthy friend and patriot for the rights of the people, informing him of our earnest desires of entering into a connexion with the society of the same denomination with ours in London: His very obliging and affectionate answer favours us with your address; In consequence, we have taken the liberty, herewith to transmit to you some resolves, which were passed at our last meetings by the whole body; and the committee was charged with the dispatch of printing, and forwarding them to you accordingly, for the purpose of submitting them to the consideration of your society, to make such use of them as they think most prudent.

“You will also notice the Belpar address; they applied to us, about two months ago, for instructions, as to our mode of conducting, &c. had not then formed themselves into any regular association. Belpar is nearly thirty miles from this place, in Derbyshire, and eight or ten miles from Derby.

“If the Society for Constitutional Information, in London, should vouchsafe so far to notice us, as to enter into a connexion and correspondence with us, it cannot fail of promoting honour, and adding strength to our feeble endeavours, and to the common cause, which is the entire motive we have in view. I am, sir, with the greatest respect and esteem, your sincere friend,

By order of the committee,  
“Sheffield, “SAMUEL ASHTON,  
14th March 1792: Campo-lane.”

“We have taken the liberty of enclosing a parcel for Mr. Hardy, in answer to a letter from him to this society, requesting some information concerning our method of conducting the business we are embarked in, &c. also informing us, there are, in London, a number of mechanics, shopkeepers, &c. forming themselves into a society, on the broad basis of the Rights of Man. You will be so obliging as to let the packet remain with you until he call for it, as by this post I have wrote him thereof. We have given him our manner of proceeding, from our setting out to this time, and hope it may be of some use; the improvement we are about to adopt is certainly the best for managing large bodies, as in great and populous towns, viz. dividing them into small bodies or meetings of ten persons each, and those ten to appoint a delegate: ten of these delegates form another meeting, and so on, delegating from one another, till at last are reduced to a proper number for constituting the committee, or grand council.

“Please to forward the packet to Mr. Hardy, as soon as convenient.”

Mr. *Bower*.—The last letter was put i

your hand by a mistake; I would wish you to read this letter [giving the witness another letter].—It is the same date, the 14th of March, 1792; Sheffield Society for Constitutional Information, to the Society for Constitutional Information, in London.

Who is it directed to on the other side?—There is no direction on it.

Mr. *Erskine*.—It is necessary the jury should know, as you go on, that this is not new matter; that it is matter which has been proved before.

Mr. *Bower*.—Certainly.—Is that the hand-writing of Mr. Ashton?—I cannot answer to his hand-writing in any respect.

Do you believe it to be his hand-writing?—I am not acquainted with his hand-writing.

You have seen him write?—But not to notice his hand-writing.

Mr. *Erskine*.—I am going to prove his hand-writing, as I stated before.

[The witness reads it aloud.]

"Gentlemen;—This Society, feeling as they do, the grievous effects of the present corrupt state defects, and abuse of our country; the great and heavy oppressions which the common mass of the people labour under, as the natural consequence of that corruption; and at the same time being sensible, to a degree of certainty, that the public minds, and general sentiments of the people, are determined to obtain, A RADICAL REFORM OF THE COUNTRY, as soon as prudence and discretion will permit, believes it their duty to make use of every prudent means, as far as their abilities can be extended, to obtain so salutary and desirable an object as a thorough reformation of our country. For these reasons, with great deference and submission to the members of the Society for Constitutional Information in London, we beg leave to request that they will be pleased to admit the persons of the following names annexed hereto as members of their society (they being our friends, and members of our society), in order that a close connexion may be formed, and a regular communication maintained, between the two bodies; that, being thus strengthened this society may be better enabled to govern itself with more propriety, and to render assistance to their fellow-citizens in this neighbourhood, and in parts more remote; that they, in their turn, may extend useful knowledge still farther, from town to village, and from village to town, until the whole nation be sufficiently enlightened, and united in the same cause, which cannot fail of being the case wherever the most excellent works of Mr. Thomas Paine find residence. I am, gentlemen, your most respectful and sincere friend.—By order of the committee,

"SAMUEL ASHTON,  
Secretary for this society."

Mr. *Bower*.—In that part where it says—"the people are determined to obtain a radi-

cal reform of the country," what word was the word originally, where the word *country* is now?—I do not know; it is not intelligible.

Do you know how those two letters of the same date came to be sent on the same day?—No, I do not.

Did you ever hear of this letter, which I have now desired you to read, before it was written, or afterwards?—I do not recollect it.

Do you not recollect hearing of that letter at all?—I do not.

That was a letter then composed by the secret committee, which never was communicated to you, at least?

*Oakes*.—By the secret committee?

Mr. *Bower*.—By the committee?—It never was.

It never was communicated, to your knowledge, to the society?—I do not know, because I did not attend all the society's meetings.

I ask whether, to your knowledge, it ever was communicated to the society?—I cannot answer to that.

Lord Chief Justice *Eyre*.—Do you know whether it was, or was not?—I do not know whether it was, or not.

Mr. *Bower*.—You say you were present at the meeting at the Castle-hill?—I was.

Did you hear Yorke's speech there?—Yes.

Have you read it since it was printed?—I have not.

Have you never read his speech?—No; I have not.

Did you know Mr. Brown?—Yes.

Was he the editor of the *Patriot*, I mean the gentleman sent as delegate, Matthew Campbell Brown?—I do not know.

Did you ever read a paper at Sheffield under the name of the *Patriot*?

*Oakes*.—Do you mean a newspaper, or a book which came out in numbers?

I believe it came out both ways; did you ever read either of them?—I have read frequently the register, which might contain extracts from the *Patriot*, Mr. Gale's register.

Did you read the book that was published under the title of the *Patriot*?—I read several of them.

Lord Chief Justice *Eyre*.—What was the title of the register?—The *Sheffield Register*.

Lord Chief Justice *Eyre*.—A newspaper, published weekly?—Yes.

Mr. *Bower*.—Look at the resolutions in the printed paper pasted into that book.

*Oakes*.—Will you give me leave to read them over?

Mr. *Erskine*.—Do you remember that paper; do you know any thing of it?—I cannot tell.

Mr. *Bower*.—Read it over aloud; it has been read already.

Mr. *Erskine*.—That is a very good reason why he need not read it aloud again.

[The witness read it over to himself.]

Mr. *Bower*.—Now, upon your oath, were

those resolutions, or printed copies of them, circulated at Sheffield as the resolutions of your society?—Yes; I believe they were.

You have seen them in circulation there; have you not?—I think so?

Did you at that time, or your society, circulate the books which are referred to in those resolutions—I mean this part, “we declare that we have derived more true knowledge from the two works of Mr. Thomas Paine, intitled, *Rights of Man*, part the first and second than from any other author on the subject—the practice, as well as the principle of government, is laid down in those works in a manner so clear and irresistibly convincing, that this society do hereby resolve to give their thanks to Mr. Paine for his two said publications, intitled *Rights of Man*, part the first and second”?—Never since they were proved to be a libel.

I am not talking about their being proved to be a libel, but whether these books were circulated by your society, about Sheffield, as the principles of government which you had adopted?—They were, before they were proved to be a libel.

Were they circulated by the members of your society, in the neighbourhood of Sheffield, in very great numbers?—Indeed I cannot answer that.

Do you know that they were circulated by the members of that society at all?—Yes; they were, before they were proved to be a libel.

I beg it to be understood that the question has nothing to do with proved to be a libel; but were they not, in fact, circulated?—They were sold to various persons, both in the town and country.

By whom; by Gale?—I do not know whether Gale sold any or not; I believe he did.

By whom, do you know, were they circulated—were they circulated by the members of that society, to your knowledge?—Yes.

Who was this David Martin, who signs those resolutions as chairman of your committee?—He was not constantly chairman.

Was he, at the time those resolutions passed?—I do not know that I was present when they were passed.

Did you not know the time till I asked you to the time now?—Yes; I knew they were circulated as such.

Did you not know he was chairman?—I knew it by his name being to the minutes.

How many members had you about this time in the Constitutional Society?—I do not know.

Do you mean to say you do not know whether there were twenty-five hundred, or ten thousand?—I cannot answer to the particular number of the society.

As near as you can?—I do not wish to speak any thing but the truth.

As near as you can?

Lord Chief Justice *Eyre*.—Give short, clear distinct answers; that is the way to convince every body that you speak the truth.

Mr. *Erskine*.—They are asking the number of members, at a distinct period of time, in a society the numbers of which were fluctuating.

Mr. *Bower*.—About how many?—Probably there might be about two hundred.

How came you to say, in your resolutions, that they were increased to nearly two thousand, if they were only two hundred?—There were many that were friends to the plans that we were proposing and adopting, that were not regularly entered into the society as members.

You begin by stating, “This society, composed chiefly of the manufacturers of Sheffield, began about four months ago, and is already increased to nearly two thousand members, and is daily increasing;” was not that fifteen, sixteen, or eighteen hundred more than you had at the time?—Probably that might be taken from the number of people that attended the meeting at that time.

Did people attend the meetings who were not members?—Yes, at the first beginning.

Had you any meeting at which five hundred persons were got together, before the month of March, 1792?—I believe there were.

I observed, when you were examined, you said you had no intention to attack government; what did you mean that you had no intention to attack government; if government had attacked you, and dispersed you, what were you to do?—We had no designs at all to attack government by force of arms.

Supposing government had attempted to disperse you?—We should have submitted to it.

You do not know, you said, whether there was any intention at all about altering the House of Lords, or about the House of Lords in any respect?—We expected a fair and equal representation in the House of Commons; that if there were any corruptions in the House of Lords, that a reformation of that would follow of course.

Then, after all you have stated to me of those resolutions, and those works you have before stated, you mean now to state that your idea was a mere reform by petition to parliament, and nothing more?—It was.

Was Martin, the person who signed this, the last witness?—Yes.

*Edward Oakes* re-examined by Mr. *Erskine*.

You said, when you had obtained an equal representation in the House of Commons, if there was any corruption in the House of Lords, a reformation there would follow of course—do you mean that that would follow, in consequence of an act of parliament made by the King, the Lords, and the House of Commons, restored to its purity, as you wished it?—Yes.

Mr. *Bower*.—That is a leading question.

Mr. *Erskine*.—Though there was no fixed time for your committee's reporting what



passed before them, whether reports were not made from time to time, and all the proceedings published in the papers?—I believe there were.

Was there any concealment of what you did?—I believe there was not.

Were not the letters, which you have heard read in court here, from time to time, printed in the newspapers at the time?—I cannot answer for that.

But did you not advertise frequently in the newspapers, the proceedings and letters that you had?—I believe the proceedings of the society were, in general, published in the newspapers.

Mr. Bower.—Did that book, called the Patriot, come out about the same time as the newspaper?—The newspapers came out long before the Patriot.

Mr. Daniel Stuart called again.

Mr. Erskine.—I call this gentleman, who has been examined before, in consequence of the evidence which your lordship has now been attending to; this gentleman is secretary to the Friends of the People, in Frith-street, London, whose proceedings are before the Court. Have you any letter from the Sheffield Society, signed Samuel Ashton?—I have. [produces it.]

Had the Society of the Friends of the People, at that time, published their Declaration; I call it our Declaration, being myself a member of that society?—Yes, they had.

Mr. Law.—What is the date?

Mr. Erskine.—The 14th of May, 1792. At what time did the Society of the Friends of the People first institute themselves, and publish their Declaration; have you one about you?—I have; here—[producing it]—it is the proceedings of the society, printed under my own inspection.

Does this letter refer to this address?—It does.

Mr. Erskine.—We will read the letter first, and then the address.

Lord Chief Justice Eyre.—What is the date of the Declaration you speak of?

Mr. Erskine.—The title of it is—"A Declaration, agreed to on the 11th of April, 1792, by the Society, intituled, The Friends of the People, associated for the purpose of obtaining a Parliamentary Reform."

Lord Chief Justice Eyre.—When published?

Mr. Stuart.—Very soon after.

Mr. Erskine.—It was transmitted to Ashton; and this letter is the answer of Ashton upon the receipt of it.

[It was read by Mr. Erskine.]

"DECLARATION, agreed to on the 11th of April, 1792, by the Society, entitled, THE FRIENDS OF THE PEOPLE, associated for the purpose of obtaining a PARLIAMENTARY REFORM.

"A number of persons, having seriously

reviewed and considered the actual situation of public affairs, and state of the kingdom, and having communicated to each other their opinions on these subjects, have agreed and determined to institute a society, for the purpose of proposing to parliament and to the country, and of promoting, to the utmost of their power, the following constitutional objects, making the preservation of the constitution, on its true principles, the foundation of all their proceedings.

"First, To restore the freedom of election, and a more equal representation of the people in parliament.

"Secondly, To secure to the people a more frequent exercise of their right of electing their representatives.

"The persons who have signed their names to this agreement, think, that these two fundamental measures, will furnish the power and the means of correcting the abuses, which appear to them to have arisen from a neglect of the acknowledged principles of the constitution, and of accomplishing those subordinate objects of reform, which they deem to be essential to the liberties of the people, and to the good government of the kingdom.

"Signed by

"Charles Grey, esq., M. P.; hon. Thomas Maitland, M. P.; George Rous, esq.; William Cuninghame, esq.; John Tweddell, esq.; earl of Lauderdale, Nicolls Raynsford, esq.; James Mackintosh, esq.; Thomas Christie, esq.; Malcolm Laing, esq.; right hon. lord Kinnaird, James Archdekin, esq.; William Harwood, esq.; David Godfrey, esq.; Higgins Eden, esq.; Philip Francis, esq., M. P.; Charles Goring, esq.; Mr. Serjeant Bond, William Lushington, esq.; Samuel Rogers, esq.; Peregrine Dealtry, esq.; R. B. Sheridan, esq., M. P.; William Fullarton, esq.; Norman Macleod, esq., M. P.; James Losh, esq.; Mr. Alderman Sawbridge, M. P.; Richard Weid, esq.; John Claridge, esq.; John Wharton, esq., M. P.; James Martin, esq., M. P.; William Smith, esq., M. P.; John Hurford Stone, esq.; W. H. Lambton, esq., M. P.; John Godfrey, esq.; George Tierney, esq.; Arthur Piggott, esq.; J. B. Church, esq., M. P.; Gilbert Ironside, esq.; T. B. Hollis, esq.; S. Whitbread, jun. esq., M. P.; sir J. Throckmorton, bart.; M. A. Taylor, esq., M. P.; William Breton, esq.

Mr. Attorney General.—Is that the Mr. Breton, whose name occurs in the account of the proceedings at Chalk Farm?

Mr. Stuart.—Yes, that is the same Mr. Breton.

Thomas Rogers, esq.; hon. Thomas Erskine, M. P.

Mr. Erskine.—Meaning me, gentlemen.

R. Knight, esq.; Thomas Thompson, esq.

M. P.; colonel Tarleton, M. P.; John Scott, esq., M. P.

Mr. Attorney General.—That is not me, gentlemen.

Mr. Erskine.—This gentleman is not John Scott, esq. but sir John Scott; they are both very good men, gentlemen.

sir Bellingham Graham, bart., George Byng, esq., M. P.; John Cartwright, esq.; Jeremiah Batley, esq.; Ralph Carr, jun. esq.; Ralph Milbanke, esq., M. P.; Henry Howard, esq.; B. E. Howard, esq.; E. B. Clive, esq.; Henry Howard, esq., M. P.; John Leach, esq.; John Nicholls, esq.; Joseph Richardson, esq.; John Towgood, esq.; William Chisholm, esq.; John Fazakerley, esq.; Richard S. Miles, esq., M. P.; Samuel Shore, esq.; Samuel Shore, jun. esq.; Charles Warren, esq. Long Kingsman, esq.; Edward Jeremiah Curteis, esq.; Samuel Long, esq., M. P.; John Bourdieu, esq.; T. B. Rous, esq.; D. O'Bryen, esq.; J. Lodge Batley, esq.; James West, esq.; Richard Carpenter Smith, esq.; W. Powlett, esq., M. P.; George Livius, esq.; right hon. lord Daer, hon. John Douglas, rev. Dr. Kippis, James Jacque, esq.; Francis Love Beckford, esq.; Adam Walker, esq.; Richard Sharp, esq.; rev. Dr. Joseph Towers, John Funnell Tuffen, esq.; John Clerk, esq.; Thomas Bell, esq.; John Wilson, esq.; Andrew Stirling, esq.; Richard Heaviside, esq.; Mr. Alderman Coombe, Robert Merry, esq.; George Shum, esq.; J. G. Lemaistre, esq.; James Perry, esq.; Henry Clifford, esq.; John Crookshanks, esq.; John Pratt, esq.; W. Maxwell, esq.; T. Hill, esq.; J. C. Bentley, esq.; Thomas Bell, jun. esq.; Richard Wilson, esq.; Mr. J. Jarvis, C. F. Ward, esq.; rev. C. Powlett, William White, esq.; T. Holt White, esq.; W. Stone, esq.; Joshua Grigby, esq.; Robert Aitken, esq.; Joseph Spurrel, esq.; Thomas Nevill, esq.; T. Rutt, esq.; Robert Slade, esq.; Francis Kemble, esq.; William Sharp, esq.; John Barnes, esq.; Joseph Ruse, esq.; T. Gordon, esq.; Mr. J. Griffin, Mr. Edward Hall, William Bosville, esq.; John Redman, esq.; J. Philips, esq.; J. Porter, esq.; J. B. Gawler, esq.; rev. J. C. Banks, Bertie Greathead, esq.; Thomas Crookenden, esq.; Benjamin Bakewell, esq.; colonel Hastings, D. E. Macdonald, esq.

“Non-resident members who have signed the Declaration.

“Right hon. the earl of Buchan, Scotland; sir J. E. Swinburne, bart., Northumberland; Professor Millar, Glasgow; G. Lloyd, esq., Suffolk; W. Belsham, esq., Bedford; Capel Loft, esq., Suffolk; W. Davy, esq., Devonshire; James Milnes, esq., Yorkshire; Robert Monteith, esq., Glasgow; J. Richardson, esq., Glasgow; J. Losh, esq., Cumberland; J. Grigby, jun., esq., Suffolk.

VOL. XXIV.

#### “TREASURERS.

“Right honourable lord Kinnaird, George Tierney, esq.”

Mr. Erskine, to Mr. Stuart.—The objects of our society being communicated in this manner, did you receive this letter?—I did. Our declaration was published about the end of April, in all the newspapers; and this letter came from Sheffield, in consequence of their having seen that in the newspaper; it is dated the 14th of May.

Mr. Attorney General.—Do you know Ashton's hand-writing?—I never saw him write; he called upon me in Frith-street, about that letter.

Mr. Attorney General.—Your lordships will permit me just to mention that it is the same hand-writing as a letter of the 26th of May, which has been read from Ashton, at Sheffield, to the Constitutional Society in London, relative to this very proceeding.

[It was read.]

“Committee of the Society for Constitutional Information, at Sheffield, to the Committee of the honourable Society, entitled, the Friends of the People, in London.

“Gentlemen;—It is with infinite pleasure we have read and considered your Address and Declaration, from your general meeting, 26th of April last; the principles therein set forth, by so large a body of the most respectable and worthy characters, is a sufficient testimony and confirmation to us, that so honourable a society, by signaling themselves in support of the laudable and general cause of the community, will render themselves most truly worthy of that high and benevolent appellation, by which they are already known to us, the Friends of the People.

“Your sentiments, your motives, and your plan of obtaining a reform of the abuses of government, are perfectly in unison with our ideas. It is our business (to which we have always confined our endeavours) to instruct the people, in a temperate and peaceable manner, the necessity of such a reform as you point out; but have never yet attempted to adopt, or point out any particular mode of obtaining it, farther than you will observe by the enclosed; believing that, in due time, men of more respectable characters, and great abilities, would step forward; to such we have always had an eye, and upon such we have ever meant to rely for our government, and the adoption of the most eligible plan of a more free and equal representation in the House of Commons, and the removal of the great abuses and impositions, by measures altogether inadequate to the interest and welfare of the nation in general, and to the mechanical and laborious part of the community in particular.

“It is, therefore, with the highest degree of satisfaction that we behold such a respect-

able body stepping forward in so laudable, so just, and so good a cause; you have our warmest wishes, sincerest thanks, and assured endeavours of supporting it, to the best of our abilities, in a rational and peaceable way. It

our duty, and it will ever claim our attention, strictly to adhere to, maintain, and be governed by, the principles laid down in your declaration, notwithstanding the gross and fallacious insinuations of the enemies of justice and equity. We are assured that no honest man, being acquainted with our principles, would have attempted to declare in the House, 'That the design of these associations is completely to overturn the constitution, &c.' And we are sorry that Mr. Baker was under the disagreeable necessity of explaining in answer to such gross assertions, without having it in his power to speak with precision to the principles and design of this and the similar societies, and to have united them with your's in his explanation. For this, and similar reasons, we are induced to take the liberty of troubling you with the above and following sketch:—Our associating, or ticket members, are now about 2,400; yet we have the satisfaction, with truth, to affirm, that not the least disorder, or confusion, hath made its appearance amongst us; all is unanimity, peace, and concord. As our members increase, the number of meeting places are increased in proportion, so as not to exceed at most thirty members at one place. All the circular meetings are held once a fortnight, on the same evening; our general meeting is held once a month, at three different houses, on the same day, generally very crowded, yet good order and regularity is strictly attended to:—and we doubt not, but what has been suggested to be impossible, will be fully manifested to be not only practicable, but easy to accomplish, viz. to introduce useful know-

favour us with.—I have the honour to be, with much esteem, your very respectful friend, (by order of the committee)

"SAMUEL ASHTON, Secretary.

" Campo-lane, Sheffield."

" Sheffield, May 14, 1792."

(Addressed) "To the chairman of the committee of the Friends of the People, at the apartments of the committee, No. 52, Frith-street, Soho, London."

Mr. Erskine.—I cannot speak from my own recollection, but I take for granted, that on receiving such a letter as that, the society of the Friends of the People sent an answer?—They did.

Did any reply come to that answer?—It did.

Of course, in order to introduce the reply, it will be necessary to read first the answer of the society of the Friends of the People.—Gentlemen, this is in the year 1793; after the motion in the House of Commons, the Society of the Friends of the People passed a vote of thanks to all the societies in the kingdom, that had assisted in procuring petitions to the House of Commons upon that measure, that is a letter acknowledging the receipt of the vote of thanks, and the sentiments of the people, at Sheffield, upon it.—Have you got one from Norwich, of the 10th of September, 1792?—I have it here [producing it.]

Mr. Erskine.—This is the answer sent to that letter, is it?—Yes.

Was it signed by Mr. Grey?—It was; Mr. Grey was in the chair of the committee that day; I carried the answer to him, to the House of Commons, after I had copied it out fair, he signed it, and I put it into the post.

One of the Jury.—Have you the reply?—I have it not here, but it was approving very



ty odious and terrible to all good citizens, confounding it with principles of anarchy, by loading it with the obloquy of pro-rog civil commotion, and of endangering destruction of a constitution justly re-ved for the freedom and happiness which so long bestowed. You are pleased to that 'you look up to the Friends of the ple as your leaders and directors in this it business:' authorized as we feel our- by this proffered guidance, and by that ony of sentiment, which from the tenor ur letter, we must suppose to exist be- you and ourselves, permit us to lay be- you some ideas which are dictated by for our common cause. The cause of y can never be endangered by the assault enemies, but may sometimes be exposed e indiscretion of its friends; its prin- are founded on impregnable reason, is enemies are, therefore, too dexterous ly to attack them. It is not against the ings of the champions of corruption ey have produced none), but it is against craft and their misrepresentation that ave found it necessary to defend our- by the wariness of our language and onduct. A similar wariness, as far as uthority of our opinion can extend, we counsel all societies associated on simi-nciples, for the accomplishment of the object, to preserve; accused as they are, nmon with ourselves, of meditating one t and holding forth another, of seducing ople by a measure so specious and salu- s parliamentary reform, into other mea- of desperate tendency and undefinable, we can only advise them to follow ample in honestly, and solemnly de- g that 'they make the preservation of constitution, on its true principles, the dation of all their proceedings' and the re of all their reforms.—Language thus it will effectually combat misrepresen- s to which, perhaps, ardent indiscretion ave sometimes furnished pretexts. An declaration of these opinions, which we ely believe you to entertain, will con- many to the cause of a reform who are eld in honest neutrality by their fears, fends of order, after such a declaration, ed by consistent conduct, will be no t driven to seek refuge from anarchy in osom of corruption. The interested ters of the present abuses will thus be ed, for it is only by confounding reform omotion, and corruption with the i constitution, that they are enabled to g and to defend their usurpations. All uage, as you will perceive from the dings which we transmit to you, has cautious, because all our views are mo- —we are persuaded that you have a moderation of views, and we earnestly you to a similar caution in language. is only, indeed, with Societies, who the same moderation of principles,

and adopt the same wariness of language, that this society can entertain any correspon- dence, or promise any co-operation; we have publicly disclaimed what we condemn, as well as avowed our real object, and on an occasion unsought for by us. In conformity with this principle we have been compelled to decline all intercourse with the Society for Constitutional Information in London; for though we never wish to attack, nor pretend to dictate, we are certainly entitled to decline all intercourse with men whose views and principles appear to us irreconcilable with ours.

"On the particular measure which you suggest for collecting the opinion of the people on the subject of reform, we do not feel ourselves yet prepared to decide; in a more advanced stage of the business it may become very fit matter for deliberation.

"Permit us, sir, to conclude with congratulating you, and congratulating our country, on the admirable principles which your letter contains, and on the intrepid moderation which it entitles us to expect from you: you will deprive our enemies of every pretext for counterfeiting alarms which they do not feel, and of every opportunity to defeat our measures by calumniating our intentions. (In name, and by order of the committee.)

(Signed) "C. GREY, chairman.

"To Samuel Ashton, esq. secretary to the Society for Constitutional Information, in Sheffield."

Mr. *Erskine*.—Have you any letter received from the Hertfordshire Society?—Yes.

Is that the letter? [showing it to the witness.]—This is the letter, dated October 1st, 1792.

Was it read to the Society?—It was.

Mr. *Erskine*.—The clerk will now read this letter.

Mr. *Attorney General*.—We have not named that Society.

Mr. *Erskine*.—I do not give up my right to read it. I will argue it by-and-by.

Mr. *Daniel Stuart*, cross-examined by Mr. *Attorney General*.

The letter that has last been read you say you took to Mr. Grey to be signed?—Yes.

It was signed?—Yes.

Did you send the letter by the post, or deliver it yourself to Mr. Ashton?—I sent it by the post to Sheffield.

Did you know Mr. Ashton?—Not personally then.

Do you know what Mr. Ashton is?—Yes; a currier, or tanner, I believe.

What was he at that time?—I suppose in the same business, I have no doubt he was.

I see you direct to Samuel Ashton, esq.?—Yes.

That I suppose was a thought of your own?—It was not.

By whose direction did you direct it to Samuel Ashton, esq.?—By the direction of the committee.

Did any of them know Mr. Ashton's situation in life?—I believe none of them knew Mr. Ashton at that time.

You told us the other day, when you were here, that you did not know that Mr. Hardy had been an associated member of the Constitutional Society?—I did not.

You see your letter is of the 24th of May?—Yes.

Do you know, that the same Mr. Ashton, upon the 26th of the same month, wrote to the Constitutional Society, in London, a letter, which I hold now in my hand, stating, that he had received your moderate letter, the letter of the Friends of the People; and stating, to that Society, that, as your principles were not according to the rights of man, the Sheffield Society would have nothing to do with you, except so far as the Constitutional Society would afterwards permit?—I never heard of such a letter before.

Have you had any communication with Mr. Ashton since?—About a twelvemonth ago Mr. Ashton was in town, and called upon me.

A short time previous to this, I think about the 27th of March, your Society, the Friends of the People, had expressed their reasons for having nothing to do with the Constitutional Society; and had stated to them, that they would have no more correspondence with them?—I think that was about the beginning of May.

It was before this letter of your's to Sheffield?—It was.

Did you know, that twelve members of that very Sheffield Society, to which you were writing, had been associated with the Constitutional Society, whose correspondence you had before rejected?—I am not sure; I had read it in the newspapers; but I cannot say certainly whether I knew it or not.

Do you mean to say, that, at the time you permitted this letter to go from the Friends of the People, to Sheffield, that you knew that that Sheffield Society had twelve members associated with that Constitutional Society, with whom your Society had refused to correspond?—At the time of sending that answer, I did not think of any such thing.

I do not mean to insinuate that you did, for I do not believe that you did—then, you did not know that fact?—No; but, I believe, I heard of it afterwards.

You observed my learned friend read to you a great many very respectable names; how many of those gentlemen have quitted your society?—I suppose about a dozen.

Mr. *Erskine*.—And you can tell how many have been added to it?

Mr. *Attorney General*.—Your society received this letter of the 14th, from Sheffield, as a proof of their moderation?—Yes.

And you treated it so, of course, and knew nothing of the letter that, on the 26th of May,

they wrote to the Constitutional Society, such as I have been stating to you?—No; I did not.

You were going to state, that some gentlemen had left your society about this time?—Yes; there were.

Do you recollect the names of them?—Five gentlemen left the society at once; their letter is printed in those proceedings; Mr. Baker, lord John Russell, Mr. Courtenay, Mr. Dudley North, and Mr. Curwen.

Have you had the curiosity to read over the names of those respectable gentlemen, whose names are printed in this list?—Certainly.

Can you inform me how many of those gentlemen were, and continue to be members of that Constitutional Society, all correspondence with which you had rejected?—I can only know from hearsay.

Mr. *Erskine*.—You will state the names.—I believe Mr. Goring is, but he has withdrawn from the Friends of the People.

Dr. Towers is a member of the Friends of the People, and the Constitutional Society?—Yes.

Major Cartwright?—Yes.

Mr. Batley?—I do not know that Mr. Batley, senior.

Mr. Thompson?—Yes.

Mr. Walker?—Yes.

Mr. Sharpe?—I do not know that Mr. Sharpe is a member of the Constitutional Society.

Mr. *Erskine*.—You will tell us, Mr. Attorney General, which you know to be members of the Constitutional Society, it will save the time of the Court; I know the fact myself, that they do continue to be members.

Mr. *Attorney General*.—When did Mr. Wharton become a member of your Society?—I believe, before I had any thing to do with it.

I presume you always inquired who the persons were that you addressed your letters to, before you wrote any thing to them?—Yes.

Is lord Daer a member of your society?—Yes, he is.

I understood you to say, there was an answer to your letter of the 24th of May, from Sheffield?—Yes; there was.

Was that from the same Mr. Ashton?—Yes.

In as moderate terms as the letter you had answered?—Yes, approving entirely of that answer which has been read.

Do you remember whether that letter, in those moderate terms, was dated before or after the 26th of May?—It must have been dated after, because the answer was on the 24th of May, and this is the reply to that answer.

It might have been written by the return of the post?—That would not do.

Mr. *Daniel Stuart* re-examined by Mr. *Erskine*.

The reply to your answer was in the same



moderate terms, which must have been later than the 26th?—Yes.

You were asked, by the attorney-general, whether lord Selkirk's eldest son, lord Daer, was and is a member of the society of the Friends of the People?—He certainly is.

Did not every body know that lord Daer had been in the British Convention, at Edinburgh?—Yes.

Every gentleman in the Society of the Friends of the People, knew that lord Daer was a delegate there?—Yes; I believe they all knew; it was in the public papers.

Does he remain still a member of the Friends of the People?—He does.

Was there any motion made to expel him, or question his conduct on that account?—None at all.

Mr. Attorney General.—Did your society know what had been the proceedings of the British Convention; I do not speak of the Scotch Convention, but the British Convention?—They knew from the public papers, I believe; nothing farther.

I observe you say, the answer must be dated later than the 26th?—Yes.

Why?—It is a reply to an answer signed by Mr Grey; the letter was dated the 24th of May; it will take two days to go to Sheffield, and two days to bring up a reply.

If your letter went from London on the 24th, and was answered by the return of post, the date of the answer must be the 26th?

Mr. Erskine.—Did you ever know a man change from a constitutional man, to a republican, in one post?

Mr. Attorney General.—Did you ever know a man who was both a republican and a constitutional man, in one post?

Lord Chief Justice Eyre.—The observations upon this transaction are in a much larger and higher scale than this.

William Dewnap, sworn.—Examined by Mr. Erskine.

What is your trade?—A razor maker, at Sheffield.

How long were you a member of the society?—Nearly from first forming of the society to the last.

Did you attend regularly, in general?—I did.

What was your object in becoming first, and afterwards continuing to be a member of that society?—The object that I had in view, was a reformation in the Commons House of Parliament.

By what means did you seek to obtain that reform, by the associations that were taking place at that time?—By petitioning the House of Parliament.

Why did you expect that petitioning, by having associations, and delegations from those associations, would be more successful than the ordinary way of petitioning?—We adopted the plan of the duke of Richmond; that was the idea that I formed of the business.

From what you heard pass, and from the

general proceedings of the society, had you any reason to believe, or have you now, while I am examining you, any reason to believe that the object of the society, in general, was different from your own?—I have not; from the knowledge I have of the society, I believe that they had only one end in view.

Which was the same end you had?—Yes.

You recollect, no doubt, the obligation under which you speak—that you are sworn to speak the truth?—Yes.

Then recollecting the sanction and solemnity under which you speak, do you declare it solemnly to be your belief now, that that was the general object of your society?—Yes.

If you had had any reason to believe that they intended to subvert the government—for as to touching the life of the king it is indecent to state it—if you had any reason to believe that they had the least idea to subvert the king's authority, would you have belonged to the society?—No.

If, having belonged to it, you had afterwards discovered that that was the object of the society, would you have continued in it?—No; I should have immediately withdrawn from it.

If you had discovered—I am not talking of your own internal ideas, which indeed you have already communicated to us—but if you had discovered, from the conduct of the society, not what any one intemperate man might say or do, but if you had discovered, from the general conduct of that society, that its intention was mischievous, and that it meant to accomplish its purposes by force, would you have continued in it?—No; I would immediately have withdrawn as soon as I had formed an idea that they were meaning to obtain it by force.

Were you a member of the society when it sent a delegate to the Convention in Scotland?—Yes.

What did you understand your delegate was to do, representing your society in the Convention in Scotland; I mean what you understood, from what was said in your society at the time?—That they were to associate together, in order to inform the minds of the people, and to draw up such papers, to be presented to government, as they thought would be most conducive to bringing about a reformation in the Commons House of Parliament.

When this Mr. Campbell Brown was sent to Edinburgh, was he authorized to proceed in any way, towards any object, but the same constitutional objects which the society itself had in view?—No; he had no other authority, but acting upon the same principle that the society had always done.

Do you remember at what time there was any alarm spread in your society upon the subject?—I recollect, but I cannot justly mention when.

Do you remember a hand-bill?—I have no knowledge of the hand-bill.



Do you remember any insults being offered to the society, or to any of its members?—I have seen people repeatedly assembled together, and have heard them speak repeatedly of assaulting the society; and, from inflammatory letters that were published in the Sheffield paper, by one George Russell, it very much alarmed the people of the society at Sheffield.

Upon that occasion did you hear any thing said about the society having any pikes, or any thing for its defence?—No; I am almost a stranger to the pike business; I have heard it mentioned, but know little of it.

If the design of the society had been, in general, to provide arms to carry on its objects, must you not have heard of it?—Certainly.

Were you ever in the committee?—Yes.

Was it ever proposed by the committee to the society, or from the society to the committee, or ever mentioned in the society, that you were to have arms for your defence, against the government, or for an attack upon it?—No; it is a question that was never agitated in the committee, nor in the society.

Then, until these people were taken up, and this unfortunate business, which detains us here, originated—I ask you, as an honest man, whether you ever heard of such thing in your life, as arming, either to resist government, or to attack it?—No; I never heard of it, either before, or since.

Had you any views, in the object of your association, which extended beyond the Commons House of Parliament?—No, we had not; I had not for my own part, and I reasonably hope that the society had not.

Is that reasonable hope founded upon what you observed of their proceedings?—Yes; I never saw any thing to the contrary.

You say the duke of Richmond's plan was the object?—The only object that I had in view, and the only object I ever understood that the society at large had in view.

Was the object which the society at large had in view, the duke of Richmond's plan, stated from time to time in the society?—Yes, frequently stated, and a number of the duke of Richmond's letters to colonel Sharman were published by the society.

The society, in order to show that that was their object, published that letter to colonel Sharman? What was the reason of your society for circulating this letter?—It was for the sole purpose of informing the society at large of the principles upon which they intended to go.

From every thing then that you know of the society, of your own knowledge, from your regular attendance upon it, did they appear to you to adhere to that object?—Yes, strictly.

*William Dewsnap* cross-examined by Mr. Law.

You have said that it was your object to ob-

tain a reform by petitioning parliament, was it your object all along to obtain a reform by petitioning parliament?—It was.

Have you continued a member of the society up to the present time?—Yes, from between two and three years ago, down to the present period.

Were you at the meeting at the Castle-hill in April last?—I was.

Was not the purpose of petitioning the parliament expressly negatived at that meeting?—It was.

Do not you know that by contrivance, that proposition was brought forward for the purpose of receiving a negative?—I was not much acquainted with that, neither was I in a situation to hear what passed at the Castle-hill, there was so large a concourse of people that I could not get near to the place.

You heard the question put?—No, I cannot say that I did hear it put; I was at a great distance, and there was a large concourse of people.

Did you read the proceedings afterwards in Gale's paper?—Yes—I might see it, but I recollect very little of it.

Whatever question was then put, was it negatived, or carried in the affirmative?—I believe it was negatived.

Were there any voices that you heard in the affirmative?—I do not know that there was.

Did you know the question that was about to be put?—No, I did not.

Knowing that that question had been negatived, and that it had been your object to obtain a reform through the medium of parliament, did you afterwards withdraw yourself from a society which had disavowed that object?—No, I did not; I remained.

Do you know of a single member having afterwards, in consequence of that vote, which you said you read in Gale's paper, withdrawn himself from that society?—No, I do not; I do not recollect a single individual.

Do you know whether the proceedings of the British Convention were not approved by your society?—That is a matter that I am a stranger to, whether they approved or disapproved.

Was not there a vote of approbation in your society of the proceedings of that convention?—I have some recollection of it, but I was not there present, neither can I give any distinct account of that.

Did you, before the meeting, know either from Broomhead or Camage, or any body else, that the question for another application to parliament, which was put on the Castle-hill in April, 1794, was meant to be put for the purpose of being negatived?—No, I did not, and I have had correspondence with Broomhead these fifteen years; I have lived within a hundred yards of him for twelve or fourteen years.

Then do you believe, or not, that it was or not put for the purpose of being negatived?—It is that of which I cannot speak.

Do you know who is the author of the paper called the Patriot?—I do not.

Do you know one Brown?—Yes.

Your delegate to the convention?—I do

Do you know whether he was the author?—I do not.

Have you ever conversed with Brown about that publication?—No.

After you had read in Gale's paper, that such a question had been put and negatived, did it still continue to be your opinion, that it was the object of the society still to endeavour to obtain a reform by petitioning parliament?—It was said they intended to petition his majesty.

Was that question put?—I never heard it put.

Did you ever know any petition to his majesty prepared?—No, I was ignorant of that.

Mr. *Erskine*.—A petition to parliament was negatived, and one drawn up immediately to the king;—it has been read in the cause.

Mr. *Law*.—But, however, after the petitioning parliament was distinctly negatived, no one of you withdrew?—No.

You said you heard nothing of arming—do you know Yorke?—I have seen him.

Do you know Davison?—No.

Did you ever hear of such a thing as a pike being prepared, or ordered, under the direction of Yorke?—The first I heard of it was that Mr. Davison had wrote a letter to Thomas Hardy in London.

When did you hear of that?—After Thomas Hardy was taken up; I did not know any thing of it before.

Have you never heard a proposition for defending yourselves against what you call the opposition party?—Yes; I do remember that.

When was that?—The time I cannot justly recollect, but I never heard it in the society.

Did you ever hear of any proposition to apply to the magistrates or government for your defence, in case any of you were attacked and illegally dispersed; do you recollect any proposition of that kind?—I do not.

*William Dewsnap* re-examined by Mr. *Erskine*.

If there had been any proposition, much more if there had been any preparation for arming for such purposes, must you not have heard it?—Yes, and had the idea of arming been general, there undoubtedly would have been large numbers of those pikes manufactured in Sheffield.

At the time that this petition to parliament was negatived, the delegates had not been sent to Scotland?—No.

Was the petition that was negatived, a petition from the people of Sheffield, or a petition from the delegates?—A petition from the people of Sheffield.

But was it ever voted that the delegates, after they had assembled together to consider the best means of attaining it, was it ever voted that they should not petition?—No, I do not know that the question ever was moved.

Mr. *Erskine*.—Undoubtedly they did think that a petition from the people at Sheffield, at the Castle-hill, would have no possible effect upon the House of Commons, because the petitions had none before; but they expected that when the societies in different parts of England had sent delegates, that if those delegates, as representatives of large bodies of people, had petitioned parliament, that it might have its effect.

Mr. *Law*.—Look at that letter, and say whether that is Ashton's hand-writing; are you acquainted with his hand-writing?—Not very well.

How many hundred times have you seen him write; have not you seen him write very frequently?—No; not six times in my life.

Do you believe that to be his hand-writing?—Indeed I cannot say.

You must have a belief one way or other—do you believe that to be his hand-writing or not?—I cannot say I believe that it is, or that it is not.

Can you form any judgment upon it?—I cannot.

Do you know where Ashton is at present?—He is somewhere in the country; I do not know where.

Where was he when you heard of him last?—In London.

Mr. *Erskine*.—We will tell you where he is; he lives in London; I understand he is going to establish a factory.

*Edward Smith* sworn.—Examined by Mr. *Erskine*.

Where do you live?—In Sheffield.

What is your trade?—A cutler.

Were you a member of this society?—Yes.

How long were you a member of it?—Ever since 1791.

Were you a member of it up to the time when this business happened, these people were taken up?—Yes.

What was your object in being a member of it?—To obtain a parliamentary reform.

What did you mean by a parliamentary reform?—Upon the same plan as the duke of Richmond and Mr. Pitt.

Had you any of the duke of Richmond's letters to colonel Sharman?—Yes, we had.

Is that one of them? [showing a printed pamphlet to the witness.]—Yes; I believe it is.

I suppose this was read in the society frequently?—It was at times.

Do you remember this passage—"Another subject of apprehension is, that the principle of allowing to every man an equal right to vote, tends to equality in other respects, and to level property. To me it seems to have a direct contrary tendency. The equal rights of men to security from oppression, and to the enjoyments of life and liberty, strikes me as perfectly compatible with their unequal shares of industry, labour, and genius, which are the origin of inequality of fortunes. The

equality and inequality of men, are both founded in nature, and whilst we do not confound the two, and only support her establishments, we cannot err." Now when you talked of the Rights of man in your society, I cannot ask what other people understood, but what did you understand by it yourself?—Equal representation in parliament.

Did you mean any thing connected with France?—No.

Mr. Attorney General.—What did he mean?

Mr. Erskine.—Or did you mean what you said now, equal representation in parliament?—Yes.

In what branch of parliament?—The House of Commons.

If you had observed, from attending upon the society, that other people's objects were different from those you have expressed to be your own, would you have continued in it?—Not a day.

And though you had not clearly discovered it, if you had only reason to believe, or suspect it?—I never heard any thing in the society, as a body, like it.

Did you ever hear any thing in the society that led you to believe that they wished to attack the king's title, or attack the prerogative of the crown?—Not in the least, much the other way.

Did you ever hear, in the society, any resolution concerning the House of Lords?—Never—not to touch the dignity of the House of Lords; the plan we went upon was the same as in 1688.

What do you mean by 1688?—The glorious advantages that we obtained by the revolution of 1688.

You say you looked up to the duke of Richmond's plan; I ask, upon your oath, whether you had any reason to believe that this plan of the duke of Richmond's, or any other plan, was to be endeavoured to be accomplished by force?—Never, not by us as a body.

Did you ever hear in the society, in the course of your being there, any determination of carrying this by force of arms, not merely by your society, in a body, but your society and others joining?—Never.

When was it that you heard of arming in Sheffield; if you ever did hear of arming?—Never till there were papers flung about in the streets, and likewise advertisements in the Courant, at Sheffield.

What effect had these papers, thrown about in the streets, and the advertisements in the Courant?—It was calling forth the people of Sheffield to stand forth, and destroy all the people of a different persuasion from themselves, and it was signed G. Russel, a clergyman.

Did that letter, and things of a similar sort, produce any alarm in the minds of the society?—In some it did; and I can relate another circumstance:—frequently when there was any kind of rejoicing in Sheffield, at good news

from the continent, it was the practice of what we call the opposite party, to come and fire pistols even into the windows of the democrats, as they called us; they even fired into my chamber window when I was in bed.

When this good news from the continent came, had you said any thing in the society calculated to damp the joy which such good news might infuse?—Not at all.

Had your society assembled to disturb them in any thing they should say or do about a victory?—Not at all.

Had you given any offence of any kind to them, to your knowledge?—No, I had not been from my work.

Notwithstanding that, did your society ever regularly arm themselves?—Never.

Was there any proposition ever, that they should have armed themselves to have resisted the magistrates?—No; if it had been determined to resist, Sheffield, in one day, could have furnished ten thousand pikes, if it had been determined, but it never was a matter of determination or consideration of the society.

Whether you had then reason, or have now to believe that there was any determination in the society to pursue such means?—All by peace and good order, according to the law of the land; that was always held forth at all the meetings that ever I attended.

You say they used to call you a democrat?—Yes.

As a person that did not love the king?—I do not know what they might think.

You can tell how you felt it in your mind?—I understood by the word democrat that I wanted a more equal representation in the House of Commons, but never by any violence.

Had you ever any wish in your own mind, or was it your object in becoming a member of that society, to touch or affect your sovereign in any respect?—Never.

So help you God, is that so?—It is.

Edward Smith cross-examined by Mr. Garrow.

I shall not trouble you with the questions the gentleman has repeated several times, whether you are a traitor, and ought to be hanged; I shall not ask you whether you have been guilty of high treason, or not. These papers that were thrown about the streets at Sheffield, alarmed, very considerably, you, who were called democrats?—Yes.

And made it, as you thought, necessary, that you should procure arms for your own defence?—Yes.

To what extent now did this dreadful alarm, which made it necessary to procure arms in your own defence go; how many people did arm themselves in consequence of these dreadful alarms?—That I cannot tell; it was never a matter of the society, and therefore it is impossible to say that.

You have been asked a good deal about your own conduct, no doubt you procured a musket and bayonet?—No, I never had one in my life, nor dagger, nor any thing of the sort.



Nor pike?—No.

Upon your oath, you had neither a musket nor a pike?—No.

Notwithstanding all this dread and excitation in the streets, you still continued to keep yourself unarmed?—I kept myself as much as possible in my own house.

Which of the magistrates was it you applied to, for you forgot to mention his name, to prevent these desperate people from destroying you all?—We applied to no magistrate.

I beg pardon, I made a mistake, it was the secretary of state you applied to?—No, as a society we never applied.

I thought we did not understand one another; which of the magistrates was it that, as an individual, you applied to?—None.

You applied to the secretary of state perhaps?—No.

Did any body apply?—No.

Did you not communicate these alarming threats to any body?—They were daily in the papers.

You made no application to any body?—In the paper—in the register it was put, that we advised people to arm to assist the magistrates.

You are an accurate man; I see you take the duke of Richmond's and Mr. Pitt's plan, and all these things, most perfectly; there were papers thrown about the streets, desiring the opposite party, opposite to the democrats, to destroy all people of a different persuasion?—Yes, it was in the *Courant*.

That was the same paper that desired people to arm against foreign invasion and domestic enemies?—I do not know what that was.

Did you ever see any paper distributed in Sheffield by the opposite party, except that paper that I describe, as an invitation to arm against domestic enemies and foreign invasion?—It was that I named in the *Courant*.

Upon which your society immediately adopted their words, and advised the democrats to arm, for the protection of property?

Mr. *Erskine*.—Is that a proper question?

Lord Chief Justice *Eyre*.—It is no question; it is an assertion.

Mr. *Garraw*.—Did not your society adopt the very words of it, as an invitation for the people to arm, for the protection of property?—As far as they advised people to arm, it was according to the rules of the constitution.

Did they not adopt the very language of that paper, which you stated to be an excitement?—Words similar to it; we had some apprehensions from it.

And did you not, in consequence of that apprehension, adopt the very words?—Similar ones to it.

The duke of Richmond's plan, and Mr. Pitt's, were the things you adopted?—Yes.

Have the goodness to inform a very ignorant man, which I profess myself to be, about all these things; what was this plan of the duke of Richmond's and Mr. Pitt's?—I un-

VOL. XXIV.

derstood equal representation in parliament, and that without it the people would not, as I understood the matter, have their rights.

What did you take Mr. Pitt's plan for a more equal representation to be?—For every man to have his voice.

That you took to be Mr. Pitt's plan?—Yes.

So much for the accuracy of your information. That gentleman read to you something about rights of man from the duke of Richmond's plan; those were the only doctrines, of the rights of man, that ever you troubled yourselves with at Sheffield, were they; the duke has introduced an expression about the rights of man; did you read any other publications about the rights of man at Sheffield?—Sometimes.

You were a cutler?—Yes.

Then of course, you had a cheap copy of Tom Paine's *Rights of Man*, had not you?—I have read Paine.

That is not an answer; you know every cutler in Sheffield had one; you had a cheap copy, had you?—I have seen one of the others.

I dare say you have seen the best edition; have you one of the cheap copies?—I have seen both.

I am sorry to be so troublesome, but I must have an answer?—I appeal to the Court, whether I am to answer that.

I do not ask you whether you read it to any human creature but yourself; do you happen to have one?—Yes; I have read one.

A cheap copy; was it made a present of to you, or how did you get it?—I obtained it by a subscription.

A subscription of the society?—No; my own, and a few friends.

Upon your oath, to the amount of how many thousand of your townsmen were there, that had this cheap edition of the *Rights of Man*?—I cannot tell that.

Do you not believe that of the cutlers alone, in the town of Sheffield, who had the cheap edition of the *Rights of Man*, there were many thousand?—There were many.

I take for granted, that you having read that book, considered it very much as a sensible, well-written book?—Yes; I thought well of it.

Were you, or not, one of those who attended and passed resolutions, very properly approving of that book?—Sometimes I was there, sometimes not.

You mean, at the society, where it was read for information and instruction?—It seldom, or never, was read publicly at the society; I do not know that ever it was read in the society.

Was it in the division meeting?—It was, when we met privately at our own houses; a few friends.

When a few friends met for constitutional information, you then read that book?—Yes; thing.

3 X



There were other cheap books furnished by the same subscription, were there not?—Not many; there were a few.

Could you help us to the titles of any of them?—No.

Do you recollect the proceedings at the Globe-tavern, in this town?—No.

At Chalk Farm?—No.

At the Crown and Anchor?—I recollect seeing their names, never more than what was published in the public papers.

I hope you had all Paine's works?—No.

Were you present at the meeting, when a public resolution was passed, expressing approbation of Paine's works?—I do not recollect that I was at that meeting.

You will not venture to swear you were not?—I was not, I believe.

If you had been there, you would not have been dissentient?—I cannot tell that.

You told me, just now, you agreed in thinking it a valuable work?—I did.

What do you take to be his notion, as to the use of monarchy in any state?—I never took that into consideration properly.

Upon your oath, do you not understand his book, the Rights of Man, to be a specific for getting rid of kings every where, not only as useless, but as burthensome and destructive to the rights of man?—If he does, that is not my mind.

Lord Chief Justice Eyre.—You are not asked what you thought yourself, but whether Mr. Paine's book did not propose it in that manner?—I believe it did, so far as I have read; but I never took notice of that passage; so far as I approve of it, I agreed; but I did not take it that Mr. Paine meant to destroy the king of this country.

Mr. Garraw.—Upon your oath, did you not understand Paine's works to be expressly written for the purpose of inculcating a notion, that monarchy was destructive to all civilized states, and that they could not too soon get rid of all kings?—Though it was published that we had gained some knowledge by his works, that was never the intention of the society, nor did they take that part of his works.

You did not understand it an approbation of his works?—Only so far as concerned the House of Commons.

Then I take for granted, you entered a protest against that part that touched the monarchy?—No.

I will read you a little of it: "All hereditary government is in its nature tyranny." Do you happen to know that the monarchy in this country constituted a part of an hereditary government?—Yes, I understand it does.

And that Paine asserts tyranny to be interwoven in its very nature and existence?—Yes, I suppose he does.

"An heritable crown"—you are politician enough—I am sure a much better one than I am—to know that the crown of Great Britain is an heritable crown?—I believe it is.

I take it for granted, that the throne of Great Britain is, in your judgment, an heritable throne?—I suppose it is.

Did you know that Paine says this: "An heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation, than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds." This passage was not expunged, I hope, in your cheap edition?—Our society never took that into consideration.

Was that passage fairly printed in your copy?—I cannot say.

Now, after the account you have given of yourself, and your manner of studying politics, I ask you upon your oath, do you believe, that that passage was not in your copy?—I cannot say.

Then you have no memory of what he says about heritable crowns and heritable thrones?—Not of that passage; we never took that into consideration.

Lord Chief Justice Eyre.—You are not asked whether you approved of that, or took that into your consideration, but whether it was in the book?—I cannot say whether it was or was not; it might be.

Mr. Garraw.—Was there any thing in Paine's book that had for its object, to reconcile the people to the necessary expenses of their establishments and their government; to make them contented under the weight of taxes that, to be sure, we must bear?—It was always advised for people to submit.

I am asking respecting this book, which you have studied accurately and attentively; did it strike you that there were any passages in it, tending to reconcile the people to the necessary burthens of the state?—I do not know that there were.

Were there none that struck you to have a contrary tendency, to excite the people to be dissatisfied and discontented, and to think their burthens were unnecessary?—We thought it was our duty to apply to parliament for redress.

That is no answer; tell me whether you recollect this passage, and I am now reading out of the cheap edition: "It is inhuman to talk of a million sterling a year, paid out of the public taxes of any country, for the support of any individual, whilst thousands, who are forced to contribute thereto, are pining with want, and struggling with misery." Do you recollect such a passage as this?—I believe I do.

"Monarchy would not have continued so many ages in the world, had it not been for the abuses it protects. It is the master fraud which shelters all others." Do you recollect this?—Yes.

You thought this a strong passage in favour of monarchy did you?—That was never agitated.

You read this passage?—Yes.

And having read it, be so good as to tell me whether you consider that as a recommendation of the continuance of monarchy, or its immediate destruction—how do you understand the passage?—We understood that we might obtain some redress; we did not wish, in any way, to touch upon the laws of this country, by any means.

I have already disclaimed the intention to ask you any such question, because it is not fit to ask you whether you were a traitor—attend to my question—how did you understand the passage I have read to you, that “monarchy would not have existed so many ages in the world, had it not been for the abuses it protects”? Did you understand that to be a recommendation, to the people of England, to protect and cultivate the monarchical principle, or to destroy it as soon as they could?—I can only answer for myself.

How did you understand the author to be advising when you read that?—I understood him to be expressing disaffection to the king; but then they were always put away, those things, and never adhered to, upon no consideration whatever, by any of us.

Upon your oath, do not you understand the passage, and did not you, when you read it, understand it to be a recommendation to get rid of monarchy as soon as you could?—We never intended to do so.

Did not you understand the author so to advise?—Certainly; the words are so.

You understood that the object of a parliamentary reform was to be effected by petitioning, as that gentleman put it; if petitions of people in different towns would not do, then there were to be petitions from delegates in a convention. Did you expect your redress from parliament itself?—Yes.

Attend, then, to this passage in Mr. Paine's book, and tell me what you thought of that:—“The bill, which the present Mr. Pitt brought into parliament, some years ago, to reform parliament, was on the same erroneous principle. The right of reform is in the nation, in its original character, and the constitutional method would be by a general convention, elected for the purpose,” and so on. Now, having read this, as his account of a bill brought into parliament to reform parliament; and having stated that the nation itself, in its original character, was to do that, do you still adhere to it, that you expected it to be done by the House of Commons?—Yes, and we thought that the proper place to petition.

You stated to that gentleman, that you grounded yourselves upon the glorious advantages we obtained by the Revolution in 1688; you, doubtless, have read with attention Mr. Paine's account of these advantages?—I have seen them, but I have not read them all.

You have, no doubt, read such a thing as the Bill of Rights?—Yes.

There is no cutler in Sheffield, but has read that, and attended to Paine's account of it?—We have attended to the Bill of Rights.

Does he, in giving his account of this, call that Bill of Rights, a Bill of Wrongs and Injustices?—I never heard any body call it so.

Do not you know Paine so treats it in his Rights of Man?—Yes.

I observe you made use of this expression more than once, in your answers to the learned gentleman's questions, that you never heard the society, *as a body*, propose to touch the dignity of the House of Lords, nor *as a body*, propose to interfere at all with the monarchy?—No.

Did you know Mr. Yorke?—Yes, I know him; I have seen him.

And have heard him, perhaps?—Yes.

In private, and in public?—I have heard him.

Did he use to attend at the meeting at Broomhead's where the tribune was?—Sometimes.

Were you a member of the secret committee?—No.

Did you attend upon the Castle-bill when Yorke was there?—I was there some of the times.

Am I right in supposing there was a motion made there for petitioning parliament?—There was.

What was the fate of that motion?—It was altered to petitioning the king.

The motion for petitioning parliament was rejected, I believe?—Yes, it was.

How many votes were there for petitioning parliament?—I do not know.

Upon your oath, was there a single hand but the hand of the mover and the seconder; I suppose all motions were seconded?

Lord Chief Justice *Eyre*.—It was not seconded?—I cannot answer, there was such a concourse of people.

How were the votes taken?—By holding up of hands.

Were you present upon the other bill, at Sheffield, at the celebration of the fast?—Yes.

You were one of the congregation?—Yes, I was there.

How many thousands of you might be there that day?—I cannot tell; may be two thousand.

You were one who joined in all the ceremonies of that day?—I was there as a looker-on; that was all.

When was it that your orderly and peaceable society, at Sheffield, first addressed the National Convention of France, as a national convention?—Never, to my knowledge.

You never heard of such a thing?—I never did.

You did not know that Sheffield had sent any address to France?—No; I did not.

Did you see the proceedings at the Castle-hill, as printed afterwards with Mr. Yorke's speech?—I did; but never read them.

They were pretty generally distributed at Sheffield?—They were to be bought at the shops.



I suppose you were not in the secret, that the motion to petition parliament was made on purpose to be negative; were you acquainted, before it was made, that there was to be such a motion made, in order to negative it?—No; I was not concerned in it at all.

That petition to the king, you speak of, was for the abolition of the slave trade?—Yes, accompanied with the other.

And enumerating a long list of grievances?—Yes.

Mr. *Erskine*.—It was only a petition from the people at Sheffield, that was negatived, was it?—No.

Mr. *Erskine*.—I next propose to read this letter from his grace the duke of Richmond to colonel Sharman; it has been stated by one or two of the witnesses; but if it is thought more regular, I will call the duke himself; I believe his grace is in attendance.

His Grace the Duke of Richmond sworn.—  
Examined by Mr. *Erskine*.

Mr. *Erskine*.—We have troubled your grace to attend, in order to inform the Court, whether this letter, which it has been proved in the course of the evidence, the people of Sheffield all looked up to, as containing a plan—

Mr. *Attorney General*.—I must object to this mode; I shall be obliged to Mr. *Erskine* to ask his grace the duke of Richmond his question, without stating, by a preamble, why he asks it.

Lord Chief Justice *Eyre*.—You propose to call his grace, to ask him, whether this paper, now produced, is his letter to colonel Sharman; what has passed elsewhere with respect to it is nothing to the duke of Richmond.

Mr. *Erskine*.—Please to look at this pamphlet?—It is extremely difficult for me to say, whether the printed paper, that is this moment given to me, is precisely the letter I did write to colonel Sharman, or not, because I know that there was a printed edition of that letter which was mutilated; therefore, whether this is an exact copy, or not, I cannot pretend to say.

Does your grace think, that by casting your eye over it, with attention, you should be able to answer that question?—I could.

Lord Chief Justice *Eyre*.—Then his grace may sit down, and cast his eye over it.

Duke of Richmond.—I think I can make the matter shorter, by putting into Mr. *Erskine's* hand a copy of the original edition.

Mr. *Attorney General*.—The better, and the more regular way will be, that the letter shown to the Sheffield witness, and which, he says, contained the plan that they looked to should be read, and then it should be examined by somebody with that now produced by the duke of Richmond.

Lord Chief Justice *Eyre*.—But whether it be exactly a true copy of the duke's letter or no, it is that which they state they acted upon.

[The letter, produced by his grace the duke of Richmond, read.]

“A LETTER from his grace the duke of Richmond, to lieutenant-colonel Sharman, chairman to the committee of Correspondence, appointed by the Delegates of forty-five corps of Volunteers, assembled at Lisburn, in Ireland.

“Sir;—I have been honoured with a letter from Belfast, dated the 19th of July last, written in the name of the committee of Correspondence, appointed by the delegates of forty-five Volunteer corps, assembled at Lisburn, on the 1st of the same month, ‘for taking preparatory steps to forward their intentions on the subject of a more equal representation of the people in parliament,’ and signed by their secretary, Henry Joy, jun. esq.

“In this letter, after showing the corrupt state of the boroughs in Ireland, the general opinion of the people that the constitution can be restored to its ancient purity and vigor by no other means than a parliamentary reform, and informing me of the steps which have been taken and are taking by the volunteers, in determining to procure this desirable object, the committee is pleased ‘to request my sentiments and advice as to the best, most eligible, and most practicable mode of destroying, restraining, or counteracting this system of corruption, borough influence, in order to lay my opinion before the provincial assembly of delegates, which is to be held at Dungannon on the 8th of September next.’

“This great mark of confidence, from gentlemen in whom so much trust is placed, does me great honour; for as I have not the pleasure of being personally known to any of them, I can owe it but to the favourable opinion they are pleased to entertain of my constant and zealous endeavours in the public service.

“I am sensible that the only proper return I can make for this honourable distinction, is to obey their commands in the best manner I am able; for although my insufficiency for so arduous a task would afford me but too good an excuse for declining it, yet I feel it would be inconsistent with my ideas of the obligation every man is under to serve the public as well as he can, if I was to refuse giving my opinions, such as they are, when thus called upon by a respectable body of gentlemen.

“Besides my inability, I have to regret the want of time to collect and arrange my thoughts in such a manner as to be fit to appear before you, and the necessary limits of a letter, which will not admit of the extensive investigation which a subject of this vast importance deserves; for although I fear I must be long, I am sensible I cannot do it justice.

“The subject of a parliamentary reform is that which, of all others, in my opinion, most deserves the attention of the public, as I conceive it would include every other advantage



which a nation can wish; and I have no hesitation in saying that from every consideration which I have been able to give to this great question, that for many years has occupied my mind, and from every day's experience to the present hour, I am more and more convinced that *the restoring the right of voting universally to every man, not incapacitated by nature for want of reason, or by law for the commission of crimes, together with annual elections, is the only reform that can be effectual and permanent.* I am farther convinced that it is the only reform that is practicable.

"All other plans that are of a palliative nature have been found insufficient to interest and animate the great body of the people, from whose earnestness alone any reform can be expected. A long exclusion from any share in the legislature of their country, has rendered the great mass of the people indifferent whether the monopoly that subsists, continues in the hands of a more or less extended company; or whether it is divided by them into shares of somewhat more or less just proportions. The public feels itself unconcerned in these contests, except as to the oppressions it endures, and the exactions it suffers, which it knows must continue so long as the people remain deprived of all control over their representatives. This indifference of theirs, when the last attempt was made for additional county members, was used by our opponents as an argument against all reform; it was asked with a triumphant air, where are the petitions from the inhabitants of Birmingham, Manchester, Halifax, and other great unrepresented towns? And their silence was deemed a proof of their acquiescence and satisfaction in the present form of elections! The truth is, that the people have been so often deceived, that they will now scarcely trust any set of men; and nothing but self evident conviction, that a measure tends effectually to the recovery of their rights, can, or indeed ought, to interest them in its favour.

"The lesser reform has been attempted with every possible advantage in its favour; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps, it has failed. Not one proselyte has been gained from corruption, nor has the least ray of hope been held out from any quarter, that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan in the same circumstances. From that quarter, therefore, I have nothing to hope. *IT IS FROM THE PEOPLE AT LARGE THAT I EXPECT ANY GOOD.* And I am convinced, that the only way to make them feel that they are really concerned in the business is, to contend for their *full, clear, and indisputable rights of universal representation.* I call them such, not only from my own con-

viction, but from the admission of the friends to the more moderate plan, who, in the second address of the Yorkshire committee to the people, confess that our claims are founded on the true principles of the constitution, and only object to them on account of impracticability. But their plan has now had a fair trial, and (if it is from the inclination of parliament that practicability is to be expected) has been found as impracticable as ours. The more extensive plan, at the same time that its operation is more complete, depends on a more effectual support, that of the people.

"I am also persuaded, that if the scheme for additional county members had proceeded any farther, infinite difficulties would have arisen in adjusting it. Neither the Yorkshire committee nor Mr. Pitt have given the detail of their plan. A just repartition would have been a most intricate task, for where different interests are separately represented, the proportion is not very easy to ascertain. The doubt you state concerning this mode of reform appears to me well founded; a few great families might divide a county between them, and choose the members by a house list, like East India directors. Another difficulty from the increase of the number of members, which might render the house more tumultuous than deliberate, has its weight. But the greatest objection, in my opinion, to this and to every other narrow and contracted plan of reform is, that it proceeds upon the same bad principle as the abuse it pretends to rectify; it is still partial and unequal; a vast majority of the community is still left unrepresented; and its most essential concerns, life, liberty, and property, continue in the absolute disposal of those whom they do not choose, and over whom they have no control. In the arrangements of plans of this kind there is no leading principle to determine that the addition ought to be, one hundred, fifty, or two hundred; that the allotment should be according to the population, property, or taxes paid in each county; that any supposed proportion between the landed and trading interest is the just one, and that the division of county and city members will correspond with this proportion when found. All is at sea without any compass to enable us to distinguish the safe from the dangerous course.

"But in the more liberal and great plan of *universal representation*, a clear and distinct principle at once appears that cannot lead us wrong. Not convenience, but right; if it is not a maxim of our constitution, that a British subject is to be governed only by laws to which he has consented by himself or his representative, we should instantly abandon the error; but if it is the essential of freedom, founded on the eternal principles of justice and wisdom, and our unalienable birth-right, we should not hesitate in asserting it. Let us then but determine to act on this broad principle, of *giving to every man his own*, and we shall immediately get rid of all the perplex-



ties to which the narrow notions of partiality and exclusion must ever be subject.

"In the digesting a plan upon this noble foundation we shall not find any difficulty that the most common understanding and pains will not easily surmount. It does not require half the ingenuity of a common tax bill; and as a proof of this assertion I myself drew the form of a bill for this purpose, which I presented to the House of Lords in 1780; not as a perfect work, but merely to show how easily the objections to the practicability of the plan, and the inconveniences that are suggested, might be got over.

"I believe the sending you a copy of my bill will be the best way of explaining its operations. I have not one ready at this moment, but it shall soon follow this letter.

"I shall therefore only mention at present a few of its provisions, which I think entirely remove the most plausible objections that have been urged against it.

"The present number of members in the House of Commons is preserved, so that all apprehension from too numerous an assembly ceases.

"An account of the whole number of males of age in the kingdom is to be taken and divided by the number of members to be sent, which will find the quota of electors to choose one member; from the best accounts I can now get, it will be about *two thousand six hundred*; these are to be formed into districts or boroughs from the most contiguous parishes; and by having all the elections throughout the kingdom in one and the same day, and taken in each parish, all fear of riot and tumult vanishes.

"The great expense of elections, which arises chiefly from the cost of conveying electors to the place of poll, and entertaining them there and on the road, will be no more, when every man will vote in his own parish. Bribery must entirely cease; in a single borough it would be difficult, on so many as to have any effect, impossible. The numbers to be bought would be infinitely too great for any purse. Besides, annual parliaments, by their frequency, and by their shortness, would doubly operate in preventing corruption.

"The vast expense of petitions to parliament on account of the illegal returns, would be reduced almost to nothing. The points on which these contests generally turn, are the qualifications of the electors under the numberless restrictions the present laws have imposed, which require the attendance of witnesses, the production of records, and are subject to infinite dispute. But when no other qualification should be necessary but that of being a British subject, and of age, there can be but little left to contend upon as to the right of electors to vote. All other questions that could afford ground for a petition would be trifling, and might be decided in one day. Many other objections are obviated by the bill, but it is needless here to mention them.

"But there is another sort of objection against which no provision can be made, and is merely imaginary. It is feared by some, that the influence of power and riches will give to the aristocracy so great a lead in these elections, as to place the whole government in their hands. Others again dread, that when paupers and the lowest orders of the people shall have an equal vote with the first commoner in the kingdom, we shall fall into all the confusion of a democratic republic. The contrariety of these two apprehensions might of itself be a sufficient proof that neither extreme will take place. It is true, that the poorest man in the kingdom will have an equal vote with the first, for the choice of the person to whom he trusts his all; and I think he ought to have that equal degree of security against oppression. It is also true, that men of superior fortunes will have a superior degree of weight and influence; and I think that as education and knowledge generally attend property, those who possess them ought to have weight and influence with the more ignorant. But the essential difference will be, that although the people may be led, they cannot be driven. Property will have its weight, as it ever must have, in all governments; and I conceive, that in this plan it will precisely find its just proportion combined with talents and character. A man of great property that is beloved and esteemed, will, as he ought, have the greatest sway; but tyranny and oppression, though attended with riches, may be resisted, and will no longer be attended with a burlesque tenure at command.

"Another subject of apprehension is, that the principle of allowing to every man an equal right to vote tends to equality in other respects, and to level property. To me it seems to have a direct contrary tendency. The equal rights of men to security from oppression, and to the enjoyments of life and liberty, strikes me as perfectly compatible with their unequal shares of industry, labour, and genius, which are the origin of inequality of fortunes. The equality and inequality of men are both founded in nature; and whilst we do not confound the two, and only support her establishments, we cannot err. The protection of property appears to me one of the most essential ends of society; and so far from injuring it by this plan, I conceive it to be the only means of preserving it; for the present system is hastening with great strides to a perfect equality in universal poverty.

"It has been said, that this plan of extending the right of voting to every individual creates much uneasiness in the minds of great and well-disposed persons; and that if paupers, vagabonds, and persons of no property, were left out, there would be no objection to extend it to all householders and persons paying taxes, and that the same division into districts might take place. My answer is, that I know of no man, let him be ever so poor,



who, in his consumption of food, and use of raiment, does not pay taxes, and that I would wish to encourage an enthusiasm for his country in the breast of every subject, by giving him his just share in its government. I readily admit, that such an alteration would be a vast improvement; but I must prefer the adhering rigidly to a self-evident principle, especially when attended with no inconvenience in the execution, that I can foresee. Besides, we should again fall into the difficulties of drawing the line of separation and into the disputes about qualification.

"The apprehensions that our government will become too democratic, have been urged on another ground. It has been said, that the House of Commons has usurped the whole power of government; that the crown in reality no longer possesses its negative, and must in all things be ruled by the House of Commons: that the House of Lords, in consequence of its exclusion (by the will of the House of Commons, and not by law) from interfering in money bills, no longer, in fact, exercises the functions of a branch of the legislature: that the only means by which the balance of the constitution is now in any degree preserved, is by the *irregular* influence of the Crown and of the Peers in the House of Commons: and that if they are totally excluded from interference there, as it is supposed will be the case if this bill passes, and are not restored to their original share of power, the equilibrium will be destroyed, and the government become purely democratic.

"To remedy this objection, it has been answered by others, that it is but just and reasonable, and that they mean at the same time that the Commons are restored to their rights, that the Crown and the Peers should recover theirs. This answer has been ridiculed in my opinion with more wit, than solidity of argument. It has been represented as admitting that whilst the House of Commons continue corrupt, the King and Lords should submit to its decisions; but that when it should really speak the voice of the people, then it would be right to revive the dormant powers of resisting it.

"For my part I agree in opinion with those who are for restoring to all parts of the state their just rights; at the same time, to do it generally, not partially, is what I must contend for. At the same time, I admit that I am not for restoring the negative of the crown. My reason is, that it appears to me preposterous that the will of one man should for ever obstruct every regulation which all the rest of the nation may think necessary. I object to it, as I would to any other prerogative of the crown, or privilege of the lords or people, that is not founded on reason.

"But I agree, that if the House of Commons was reduced to its natural dependence on the people alone, and the present system of making it the exclusive part of government was continued, we should approach to a pure

democracy more than our constitution warrants, or than I wish to see. I am not for a democratic, any more than for an aristocratic, or monarchic government, solely; I am for that admirable mixture of the three, that our inimitable and comprehensive constitution has established: I wish to see the executive part of government revert to where the constitution has originally placed it, in the hands of the crown, to be carried on by its ministers: those ministers under the control of parliament, and parliament under the control of the people. I would not have parliament made, as it daily is, a party concerned in every act of state, whereby it becomes the executive, for which it is not calculated, and loses its superintending and controlling power, which is the main end of its institution. For when the two Houses are previously pledged by addresses, votes, and resolutions, it becomes extremely difficult for them afterwards to censure measures in which they have been so deeply engaged by acts of their own. Another great inconvenience arises from parliament's taking so much of the executive of government on itself, which is, the excessive length of the sessions; an evil which of late has greatly increased. Now that parliament is engaged in every detail in order to screen the minister, it never can finish its business till the middle of the summer, when the independent country gentleman, tired of a long attendance, and hot weather in town, is retired to his private business in the country, and that of the public left to be settled in thin houses by a few dependents of the minister. A short session of two or three months would be sufficient to examine the expenditure of former grants, to make new ones, to redress grievances, and pass such general laws as circumstances might require. The inconvenience and expense to a private member of parliament in attending his duty would then be trifling; and instead of forty commoners and three peers to form a quorum to decide the greatest matters of state, the attendance of two-thirds of each body, which would give respect to their proceedings, might and ought to be required. I am also free to own my opinion, that when the House of Lords shall be effectually prevented from having any influence in the House of Commons, as I think it must by this bill, it should at the same time recover its equal rights in every respect with the House of Commons as a co-ordinate branch of the legislature. These sentiments are I think consonant to the idea so well expressed in your letter to the volunteer army of the province of Ulster, 'to restore to the crown its original splendor, to nobility its ancient privileges, and to the nation at large its inherent rights.'

"I believe I have now troubled you with all that is necessary concerning my plan. My bill will show the detail as far as concerns the House of Commons and the election of Scotch peers: the regulations for restoring, &c.



the crown its executive, and to the House of Lords its deliberative functions should be added to, and form a part of this bill; but I have not as yet had time and leisure to prepare them.

"In what I have said, I have shown my opinion concerning the 1st, 3rd, 4th, 6th and 8th questions you have proposed to me. There remain the 2nd 5th and 7th to be considered.

"In respect to the second, which I presume relates to the admission of Roman Catholics to vote at elections, I can only say, that the same principles which go to civil liberty, equally lead to liberty of conscience: I admire with you the glorious spirit of toleration which you say has united the once distracted inhabitants of Ireland into one indissoluble mass: and I am sure that nothing short of evident danger to the state can warrant its interference in religious opinions. But unacquainted as I am with the state of Ireland, it is impossible for me to know the present temper and disposition of the Roman Catholics there, and those only who are on the spot can judge how far exclusions of this sort are necessary, or ought to extend.

"With regard to the 5th question, if voting by ballot is advisable? I am clearly of opinion that it is not. The idea of a ballot can have arisen but to avoid the effect of some improper influence; and I conceive it much more noble, directly to check that influence, than indirectly to evade it by concealment and deceit. I am convinced that trivial circumstances in things like this tend greatly to form the national character; and that it is most consistent with that of a British or Irish freeman, that all his actions should be open and avowed, and that he should not be ashamed of declaring in the face of his country whom he wishes to intrust with its interests. Upon the same idea that ballots may be a cover for independence, they must also be a cloak for bribery, and a school for lying and deceit.

"As to the 7th question, whether it would not be equitable or expedient that boroughs now in the possession of individuals should be purchased by the nation? I think, that although no man can have a strict claim in equity to be refunded the loss of what neither buyer nor seller had a right to barter, yet it will be wise to purchase the good will, or at least to soften the resistance, of the present powerful possessors of boroughs, by a most ample compensation. The liberties of a nation cannot be bought too dear; but the whole cost of these boroughs would not amount to the profits of one jobbing contract.

"I have now answered all the questions you have been pleased to propose: but I must mention another advantage which ought to recommend the measures you are pursuing, to every friend to the interest of the kingdom. we have  
way of

can no longer be any apprehension of their endeavouring to redress themselves by mobs and tumults; and even such regular and well-conducted meetings as yours will become needless. I mention this circumstance with the more satisfaction, as it stamps your conduct with the most unequivocal marks of disinterested patriotism. Power, when once acquired, is generally endeavoured to be preserved by its possessors: but you, after having taken up yours from necessity, and employed it usefully, are now endeavouring, with unexampled virtue, to render its continuance unnecessary. For great as your services have been, in so soon forming a complete army, in the advantages you have procured for your country, in the good order you have preserved, and in the efficacy you have given to law, you will derive still greater credit, in my opinion, from your good sense in seeing that a great military force, totally unconnected with the civil government, cannot be a permanent establishment in a free country, whose first principle is, never to trust absolute power in any hands whatever. Your present endeavours to restore the constitution to its purity and vigour, evidently tend to make this and every extraordinary institution unnecessary; for, when the people are fairly and equally represented in parliament, when they have annual opportunities of changing their deputies, and through them of controlling every abuse of government in a safe, easy, and legal way, there can be no longer any reason for recurring to those ever dangerous, though sometimes necessary expedients of an armed force, which nothing but a bad government can justify. Such a magnanimous end to your proceedings, when, after having restored liberty, commerce, and free government to your country, you shall voluntarily retire to the noble character of private citizens, peaceably enjoying the blessings you have procured, will crown your labours with everlasting glory, and is worthy the genuine patriotic spirit which animates the Irish volunteers.

"Before I conclude, I beg leave to express a wish that the mutually essential connection between Great-Britain and Ireland may soon be settled on some liberal and fair footing. That which did subsist was on such narrow and absurd principles, that no friend of either kingdom can regret its loss; founded on constraint and dependence, incompatible with the condition of freemen, Ireland had an indisputable right to dissolve it whenever she chose so to do. But surely, if we do not mean a total separation, it would be right to agree upon some new terms by which we are to continue connected. I have always thought it for the interest of the two islands to be incorporated and form one and the same kingdom, with the same legislature, meeting sometimes in Ireland as well as in England. But if there is any objection to such an union not to be proposed, some sort of federal union, at

least, between the two kingdoms, seems necessary to ascertain the many circumstances that concern their joint interests; and an union of this sort may now be formed with much greater propriety than before, as it will be sanctified by the free consent of independent nations.

"I do conceive that some step of this sort is absolutely necessary, because the present footing of separation, rather than union, is too unfair to be able long to subsist. England, besides the load of the whole debt contracted for the use of both kingdoms, bears all the burdens of naval defence and foreign negotiations, and by far more than its proportion of the land service in time of war. But what is worse, is, that there is no certainty now left, that we shall have the same enemies, and the same friends; different interests as they may appear, may lead one kingdom to think a war necessary, and the other to remain in peace: the same king, in his different kingdoms, may think it wise to follow the advice of his respective parliaments: I need scarcely add, that the unavoidable consequences of such a difference, are a war between the two kingdoms. Unless some settlement takes place upon these and many other important subjects, I am far from being clear that it will be for the advantage of liberty in either kingdom, that its monarch should continue the sovereign of a neighbouring state, with which it has no connexion. I am sensible that there are great difficulties attending the adjustment of such an union, and that it requires great wisdom and temper to form it, especially on the part of Ireland, which must feel that she ought to give the preponderance to Great Britain: but I am sure the business ought not to be neglected, and that every true friend to both kingdoms ought to give it his most zealous assistance.

"I beg pardon for having gone into a subject not immediately belonging to that, upon which you have desired my opinion, but I thought it so connected with it, and at the same time so important, that I trust you will excuse my having introduced it. I fear I have been very long, but it was impossible for me to compress so much matter into a less compass, and when you wished to have my opinion, I thought it best to give it fully, or at least as fully as I could in a letter. If it contains one thought that can be useful, I shall be happy. I have only to assure the committee of the zeal I feel for the cause the volunteers have undertaken, to the support of which I shall ever be ready to give every assistance in my power; and that it is with the highest respect and admiration for their conduct that I have the honour to be, their most obedient, and most humble servant,

"RICHMOND, &c.

"August 15th, 1793.

"To Lieut. Col. SHARMAN."

Mr. L<sup>rd</sup>.—I have looked over the copy  
VOL. XXIV.

the Sheffield witness spoke to, while the clerk has been reading the letter, and I find the only variations in this copy to be the word *nor*, instead of *not*, and a transposition of the word *and*, it is *are and taking*, instead of *and are taking*.

Mr. Erskine.—Gentlemen, this letter, which from the importance of the subject, as well as the dignity and good sense of the author, I chose to read first, was written in answer to the resolutions that had been passed in Ireland, when lieutenant colonel Sharmman was in the chair.

This letter was written by your grace, in consequence of the resolutions that had passed at the meeting of delegates of forty-five corps?—It was written in answer to the letter that is printed with it.

Mr. Erskine.—Then I have a right to read it.

Mr. Attorney General.—There can be no pretence for reading any thing more than has been read upon the ground of any evidence that has yet been given; whatever respect may be due to the opinions of his grace the duke of Richmond, I have a higher duty belonging to me, and certainly I should not have permitted the letter to have been read if it had not been produced, according to my judgment, agreeably to the rules of evidence, in consequence of a witness at the bar stating that the pamphlet, in his hand, contained the scheme of reform, that he, the witness, proceeded upon:—after he had stated that, as a fact, he had made the paper part of his evidence, and I conceive that paper would then have been evidence, whether his grace the duke of Richmond had been called to state that fact which his grace, according to his character, I presume, would state every where, indeed which the world knows, that he was the author of it; but I submit to your lordships that it is going a great deal farther, to endeavour to connect a letter, written by colonel Sharmman to the duke of Richmond, with the duke of Richmond's letter, in order to make that evidence between the king and the prisoner; no witness having stated, as yet, that they had ever seen any letter from colonel Sharmman to the duke of Richmond; or that they had proceeded upon such paper, or had directed their minds, or conduct, in any respect whatever by it.

Mr. Erskine.—Was not this letter, that has been read, published at the time; and was it published separately, or as an answer to that preceding it in this book?—Published at the time as it is there.

With that to which it is an answer?—Yes.

Mr. Attorney General.—Still I object to colonel Sharmman's letter being received in evidence.

Mr. Erskine.—I shall not argue it, though I am not unprepared to argue it. My learned friend whenever the time shall arrive; in the meanwhile your lordships give me leave to read an extract from it.

S Y



Journals of the proceedings of the House of Lords.

[A clerk of the House of Lords produced a volume of the Journals of the Lords.]

Mr. *Erskine*.—Is this the Journal of the Lords House of Parliament of the year 1780?—It is.

Mr. *Erskine* to the Duke of Richmond.—Will your grace have the goodness to cast your eye upon this Journal, of the 8th of February, 1780? There is an entry that the Lords should be summoned to attend the House, for considering a motion for appointing a committee, and afterwards there follows a protest, signed by your grace, and a great number of very illustrious peers of this country, among the rest I see the name of earl Camden.—Will your grace have the goodness to tell me if that is your signature to the protest?—It is.

Mr. *Attorney General*.—What is the evidence you propose to adduce?

Mr. *Erskine*.—I will state the nature of this evidence which I offer; I will also state upon what principle I conceive it to be evidence, unless the attorney-general shall think it a more regular way for me to content myself with stating the nature of it, leaving to him, in the first instance, to frame his objection, and for me to answer it.—This was a motion, which came on in the House of Lords, recorded in the Journals of parliament; there were petitions from a great number of associated bodies of men in this country, which associations were calling emphatically and loudly upon the House of Commons to attend to its trust, for the House of Commons is, itself, a delegated body, representing the people; calling upon the House of Commons to attend to its trust in consequence of that wasteful horrible expenditure which took place in the American war.

Mr. *Bower*.—You are stating certain facts which do not appear upon the evidence you offer.

Mr. *Erskine*.—They do expressly.

Mr. *Bower*.—You state that, in fact, to be a proceeding in parliament upon certain petitions, which I say is not opening the evidence, unless you find it there.

Mr. *Erskine*.—I do state that, and I mean to read it.

Lord Chief Justice *Eyre*.—I take it you are now going to open a motion in the House of Lords, which is upon the Journals.

Mr. *Erskine*.—Just so.

Lord Chief Justice *Eyre*.—You may open the substance of that motion; and if you go beyond that, then their objection lies, that you have stated something which is not in the evidence.

Mr. *Erskine*.—I am much interested in avoiding objections, because I am hardly able to go through the common examination without that. The noble lords in the protest, state their reasons for that protest; and

without reading this, which I have no right to do, till your lordships shall be pleased to receive it in evidence, I shall be in order, if I only state what I take to be the general substance of it; and if I, in stating that, should step beyond what the paper itself should afterwards show when admitted, then I am persuaded I shall have given very just offence to the Court. The noble lords, among whom are his grace the duke of Richmond the witness, lord Camden, and others, whose names are not material, upon the rejection of this motion, protest, because they conceive it to be the duty of the House to listen to the will of the people;—this is evidence to prove, that when these very numerous associated bodies presented their petitions, in consequence of having had committees to co-operate with one another, that the House considered that, although it might be natural enough to reject the petitions of private men, yet when the people were in large associated bodies, co-operating with one another, in order to speak what was the will of a very considerable portion of the people (more especially if it should at last come to be the majority of the public) that it is a principle never to be invaded, nor argued away, that the will of the people—

Mr. *Attorney General*.—I do not know what it is Mr. *Erskine* is now alluding to; but if he will state to me that it is a proceeding of the House of Lords of this kingdom, which he conceives can be of use to a subject of this kingdom, standing at that bar, let it be what it will, if it be a proceeding of the House of Lords, I will not object to it.

Mr. *Erskine*.—I am much obliged to you, I was sure that would come from you; I assure your lordship, that Mr. Gibbs and I have read it, and we do think it is material evidence.

[It was read.]

“*Die Martis, 8<sup>o</sup> Februarii, 1780.*”

“The order of the day being read, That all the Lords be summoned to attend the House this day, to consider of a motion for appointing a committee consisting of members of both Houses, possessing neither employment nor pension, to examine without delay into the public expenditure, and the mode of accounting for the same, more particularly into the manner of making all contracts; and at the same time to take into consideration what savings can be made consistent with public dignity, justice, and gratitude, by an abolition of old or new created offices, or reversion of offices, the duties of which have either ceased, or shall on inquiry prove inadequate to the fees or other emoluments arising therefrom, or by the reduction of such salaries, or other allowances and profits, as may appear to be unreasonable; that the same may be applied to lessen the present ruinous expenditure,

and to enable us to carry on the present war against the house of Bourbon, with that decision and vigour which can alone result from national zeal, confidence, and unanimity.

"It was moved, That a committee be appointed, consisting of members of both Houses possessing neither employment nor pension, to examine without delay into the public expenditure, and the mode of accounting for the same, more particularly into the manner of making all contracts; and, at the same time, to take into consideration what saving can be made, consistent with public dignity, justice, and gratitude, by an abolition of old and new created offices, the duties of which have either ceased or shall on inquiry prove inadequate to the fees or other emoluments arising therefrom, or by the reduction of such salaries or other allowances and profits as may appear to be unreasonable: that the same may be applied to lessen the present ruinous expenditure, and to enable us to provide in the manner the least burthensome for the indispensable exigencies of the state.

"Which being objected to, after long debate,\* the following amendment was proposed to be made to the said motion, viz. leave out the words *members of both Houses*, and instead thereof insert *Lords*.

"The same was agreed to and ordered accordingly.

"Then the question was put, whether to agree to the said motion thus amended?

"It was resolved in the negative.

"Contents .....	50
"Proxies .....	5
Total	55
"Non-contents .....	81
"Proxies .....	20
Total	101

"Dissentient,—First, because however the waste of public money, and the profusion of useless salaries, may have been heretofore overlooked in the days of wealth and prosperity, the necessities of the present time can no longer endure the same system of corruption and prodigality.

"The scarcity of money, the diminished value of land, the sinking of rents, with the decline of trade, are melancholy proofs that we are almost arrived at the end of taxation; and yet the demands are annually increased, while the hopes of peace are every year put to a greater distance.

"For let any man consider the immense debt, increasing beyond the possibility of payment, with the present accumulation of taxes upon every article, not only of luxury, but of convenience, and even of necessary use; and let him carry his thoughts forward to those

additional duties which must immediately be imposed, to make good the interest of the approaching loan, and of that debt which will still remain unfunded, he will find that, at least one million and an half of interest must be provided for, besides what may be farther necessary, to make good the deficiencies of the late taxes.

"Under these circumstances, the savings of a strict and vigilant economy in every branch, and the application of overgrown salaries, unmerited pensions, and useless places to the public service, are almost the only resources left in the exhausted state of our finances. But besides this strong argument of necessity that presses upon the present moment, such and so great are the abuses in the management and expenditure of the public money, as would call for the strictest inquiry and animadversion even in the best of times. The practice of expending immense sums without consent of parliament under the fallacious head of contingencies and extraordinaries, the greater part of which might easily be comprised in an estimate, but because some unforeseen articles are not capable of such precision the minister has, under that colour, found out a method of expending the public money first, *ad libitum*, and when it has been so expended, has found means to induce parliament to think itself bound in honour to ratify and make it good, deserves the highest censure; and no minister who shall dare to stake the public credit for money that has not been voted, ought to be justified by a less authority than an act of indemnity. The millions which remain in consequence unexplained and unaccounted for—the shameful facility of admitting almost every claim—the improvident bargains made for the public service—the criminal neglect, and even contempt of the few checks established in the Board of Treasury, besides great part of the money being shared in its passage among a tribe of collectors, clerks, agents, jobbers, or contractors, or paid away by official extortion, or stopt in its course to breed interest for some engrossing individuals are grievances which the present motion has in view to remedy.

"Secondly, but great and important as the motion is in this view of it, it is still more important in another, as it tends to narrow the wide-spreading influence of the Crown, that has found its way into every corner of the kingdom.

"It is sufficient to allude to this grievance without any farther enlargement; but this argument, though, perhaps, the strongest in favour of the motion, has been turned into an objection to it, as if it meant to abridge the rights of monarchy, and make the Crown dependent upon the parliament.

"If the objection means to insinuate, that corruption is necessary to government, we shall leave that principle to confute itself by its own apparent iniquity.

\* See the Debates in the New Parliamentary History, Vol. 30, pp. 1318, *et seq.*

"That this motion is intended to diminish the constitutional power of the Crown, we deny; the constitutional power of the Crown we are no less solicitous to preserve than we are to annihilate its unconstitutional influence. The prerogative, rightly understood, not touched, or intended to be touched by this motion, will support the Crown in all the splendour which the King's personal dignity requires, and with all the authority and vigour necessary to give due effect to the executive powers of government.

"It has been argued, that this is not a proper time for reformation, when all the attention of the kingdom should be employed upon the war, as the great and only object in the present time of distress; to which we beg leave to insist, that the present is, for that very reason, the properest time, because nothing is so essential to the conduct and prosecution of the war as the frugal management of that supply, by which only it can be carried on with any prospect of success; nor ought the plan of economy to be any longer delayed at the risk of a general bankruptcy; and, from the history of this as well as other countries, times of necessity have been always times of reform.

"Thirdly, because we conceive that the mode of a committee, which might be to act with a committee of the other House, and might, if necessary, be rendered durable, and vested with due powers by an act of the whole legislature might bring back the public expenditure to its constitutional principle; might devise proper regulations for opening contracts to the proposals of every fair bidder, for reforming the abuses of office and the enormity of fees, with a variety of other abuses, particularly that of large sums of money lying in the hands of individuals, to the loss of the state.

respectfully of the other. To them it will seem a matter of indifference whether the motion is defeated by the exertion of that influence to excite a groundless claim in the one house, or by a groundless apprehension of such a claim in the other. But we, who would be understood to think with more respect of both, cannot entertain an apprehension so injurious to the House of Commons, as that they would, at this time especially, and on this occasion, have advanced such a claim.

"The motion has likewise been objected to on account of its disqualifying persons possessing employments or pensions, to be of the proposed committee. We are far from supposing, that the possession of place or pension, necessarily corrupts the integrity of the possessor. We have seen, and the public have seen, many illustrious instances to the contrary; yet we cannot but suppose that the public expectation of advantage from this measure would have been less sanguine, if they had seen persons possessing offices selected to distinguish how far their offices were useful, or their salaries adequate. They, perhaps, would not think the possessor of a pension, or office, the fittest judge how far that pension or office had been merited, or was necessary. We cannot therefore think the motion justly exceptionable on this ground; it rather appears to us to have been drawn with a proper attention to noble lords in that predicament, exempting them from a situation which they must necessarily wish to decline.

"We conceive ourselves warranted, in the mode proposed, by precedent as well as reason and it was stated to the House to have been recommended by the most approved constitutional authors, who have written since the revolution; but having offered to meet any other proposition which might come with a



what farther is to be done, if these petitions are rejected, the best answer is, that the case cannot be supposed; for although, upon a few separate petitions, it may be fairly said, that the other House ought not to be decided by a part only of their constituents, yet it cannot be presumed they will act in defiance of the united wishes of the whole people, or indeed of any great and notorious majority. It is admitted that they have a power to vote as they think fit; but it is not possible to conceive that so wise an assembly will ever be rash enough to reject such petitions, and by that means cause this dangerous question to be broached and agitated, whether they have not broke their trust?

"The voice of the people will certainly be complied with. Ministers may, as they seem to have done in a recent instance, deprive any man of what he holds at their pleasure, for presuming to exercise his undoubted right of thinking for himself, on these or other public subjects; but it will not be wise in them to treat these associations with contempt, or call them by the invidious name of faction; a name by which the minority, in both Houses of Parliament, have been so frequently and so falsely calumniated, because the name, so applied, will recoil back upon themselves, when acting against the general sense of the nation. Nor will they be able to represent these numbers, so respectable in rank and property, as they did but too successfully the discontented Americans, as a mob of indigent and seditious incendiaries, because the people to whom this is addressed, are the very people that are abused, and every man bears within himself the testimony of its falsehood.

The ministers, on this particular occasion, cannot deceive the people.

"Fortescue, Harcourt, De Ferrars, Beaulieu, Camden, Coventry, Richmond, Manchester, Derby, Effingham, Grafton, Portland, Ferrers, Cholmondeley, King, Abingdon, J. Peterborough,\* Abingdon, Penibroke and Montgomery, Fitzwilliam, Rutland, Nug. Temple, Bolton, Courtenay, Stamford, Tankerville, J. St. Asaph,† Wycombe, Craven, Rockingham, Scarborough, Jersey, Devonshire.—Dissentient without reasons, Radnor.—For all the above reasons except the fourth, Osborne."

Mr. Daniel Stuart, called in again.

Mr. Erskine.—I call back this gentleman only for the purpose of asking him one question, which I could not with propriety ask him before;—you stated, in your former examination, your personal acquaintance with the prisoner at the bar, and your transactions with him before; did you ever hear him state what his plan of reform was?—Yes, I have; he always stated it to be the duke of Rich-

mond's plan, universal suffrage and annual parliaments.

Was that said to you publicly, or in the privacy of confidence?—It was said publicly; and he sold me some copies of the duke of Richmond's letter.

Mr. Attorney General.—I really must object to this sort of examination.

Mr. Erskine.—Then I will now defend this question; I am persuaded your lordships will not refuse to the unfortunate man at the bar, that evidence which has been received for every prisoner under similar circumstances, from the earliest times of our history to the present moment. I am sorry to consume the time of the court, but if I am called upon I will repeat to your lordships, *verbatim*, from the State Trials, various questions upon similar occasions, put by different prisoners by consent of all the judges, all the attorney-generals, and solicitor-generals, and counsel for the Crown. I only wish to know whether the question is objected to or not.

Mr. Attorney General.—It is.

Mr. Erskine.—I will proceed, and I have much more pleasure in doing it from the manner in which the attorney-general conducted himself recently, because the moment that it was stated as a proceeding which, we thought, might be serviceable to the prisoner, and consistent with the rules of evidence, he instantly acceded to its production—therefore, independent of satisfying your lordships, if I can satisfy my learned friend that we are in the regular course, I am persuaded he would be sorry, himself, that this prisoner should be deprived of the advantage which all others have enjoyed.

I believe the reason why a matter of this sort falls into debate, is the very singular anomaly of the case before your lordships, and I am the more inclined to think that I shall succeed in the little that I have to offer to you from what fell from the learned judges of the court of King's-bench (two of whom are now present) when it was discussed how far a paper that had been published in the year 1780, which was supposed to have been written by some persons of rank, should have been received in evidence by Mr. Justice Wilson, who tried an individual in the year 1793, for a libel.—The Court supported the rejection of it.—The learned judge rejected it upon this principle:—That the defendant in that case was charged with an act, which act was the publication of a libel; and that, although the late act of parliament \* directs, in fact, that the trial upon a libel, like the trial upon any other case, proceeds by the judge's giving his opinion to the jury in matter of law, still it does not require that there should be any evidence upon the subject showing the intention of the prisoner.

Mr. Justice Buller.—What prosecution do you allude to you?

\* Hinchcliffe. † Shipley.

\* See Vol. 22, p. 306.

Mr. *Erskine*.—The case of Daniel Holt \*; and upon this ground, they say, you may rebut evidence which fastens any thing that is wrong upon you, undoubtedly, but because a person has published a libel, supposing it to be one, in the year 1780, that will be no answer to your publishing a libel in the year 1793. It may be matter extremely material in mitigation of punishment, but, said the Court, it is not strictly evidence, because it does not go to negative the gist of the indictment; for supposing it to have been received by the judge, he could not have told the jury, if he thought, in point of law, the publication was a libel, that the publication of the same libel by any other person, however respectable, at any other time, was a shield against the criminal laws attaching upon the defendant in that case; and upon that ground I do know that that most intelligent judge, whose loss we all in common deplore, decided it; and, as the court of King's-bench determined, rightly decided it.

Unless I deceive myself greatly, and unless I have lost the faculty of seeing whether I am assented to, when laying down any proposition (which when man speaks to man is in general not very difficult to see) I rather think I am in possession of the opinion of the court in the striking difference between the case now in agitation, and a case where a man is charged with a fact, which fact, if it be done, the criminal intention, which arises from the commission of the criminal act, carries with it a certain legal inference, which legal inference, being once established, it does not become a matter of fact for the prisoner to endeavour to rebut.

But leaving out of the question all consideration of that act of parliament, I stand upon the authority of lord Mansfield, in the case of the king against Woodfall † the printer, reported in sir James Burrow's fifth volume: That wherever the fact does constitute the crime, but that the fact is either in itself wholly indifferent, or if it is not indifferent but criminal; if it be criminal, short of the charge that is made upon the party, that there the intention is not matter of law, but that it is matter of fact, and that the party has a right to prove his intention in every way, by which the intention of a man can be safely, or reasonably collected.—To apply that doctrine in the case I have mentioned, which I am persuaded is familiar to all your lordships, in which a very elaborate judgment was delivered by lord Mansfield, where his lordship said, the defendant, Woodfall, was found by the jury guilty of having published the libel; and though the defendant called no witnesses to rebut the criminal inference; yet, says lord Mansfield, if it be upon the libel, he may arrest the judgment upon the record, for the fact of publication is the crime that is imputed

to him; and if, when it comes before the Court, that publication turns out to be no libel, the defendant can have no judgment pronounced upon him.

Now, what is the present case?—The prisoner is charged with the overt acts, which I need not repeat, because we are so well acquainted with the nature of them; but he is not charged with the commission of those acts, as substantive acts, but he is charged with having in his mind the wicked and detestable purpose of aiming at the destruction of the king, to put down and bring the king to death, and that in the fulfilment of that most detestable imagination, he did the specific acts charged upon the record;—that is to say, that he agreed to assemble a convention to be held which was not held—that he conspired to hold it, for the purpose of subverting the rule and authority of the country, and not that alone, but that he consented to hold such convention, which convention, in his mind, was to accomplish the purpose of the subversion of the government, and that he did agree to assemble that convention for the purpose of that subversion in fulfilment, not that the other is the consequence of it, but in fulfilment of the detestable purpose of compassing the king's death.

Here then the intention of the mind is the question which the jury have to try; and I think I may appeal to what passed in the Court on Saturday, that I did not seek to lay down other rules of evidence than those that have been most recently stated, and those that have been determined in ancient times.—Then, that being the case, let us see whether the declarations of a prisoner, charged with an evil and wicked intention—declarations at the time, or about the time—nay, I will go farther, since I am put to it generally, I say I will prove (which is not this case by-the-by, for my case does not require it) that if I, who am now speaking to your lordships, was charged with the detestable purpose of compassing the king's death, I should be intitled to call any man in Court—not to my character—but I should be intitled to call every man in Court who knows my sentiments, (which are well known upon these subjects) what I have repeatedly declared with regard to the monarchy of this country, and its utility to the system of our government; but though I should establish it clearly in twenty instances, or till your lordships desire me to go no farther, still it would not be so evident as it is in this case, that the intention of these persons, and the object which they had in view was, to follow the plan of the duke of Richmond.

The first case I will cite is the most modern, but not the least important, the case of lord George Gordon,\* and I say it is the most important, because there he is not charged with compassing the death of the king, but he is

\* See it, *antè*, Vol. 22, p. 1189.

† See it in this Collection Vol. 20, p. 895.

\* See it, *antè*, Vol. 21, p. 483,

charged with an *act*, with levying war; but still it was necessary in the investigation of that question, since it is not that open rebellious war which every man must give the same name to, which nobody could explain away by evidence, but it being an ambiguous thing, a sort of constructive levying of war, the intention of his mind becomes the subject of consideration. I will read to your lordships the very words and syllables stated by lord Mansfield upon that occasion.—The question he puts to the jury is this:—

“First, whether the multitude did assemble and commit acts of violence, with intent to terrify and compel the legislature to repeal the act called sir George Savile’s? if upon this point your opinion should be in the negative, that makes an end of the whole, and the prisoner ought to be acquitted: but if your opinion should be, that the intent of this multitude, and the violence they committed, was to force a repeal, there arises a second point, whether the prisoner at the bar incited, encouraged, promoted, or assisted in raising this insurrection, and the terror they carried with them, with the intent of forcing a repeal of this law;—If upon this point your opinion (speaking to the jury), should be in the negative, that makes an end of the whole, and the prisoner must be acquitted: but if you think it was the intention of the multitude, and the violence they committed was to force a repeal, the second question arises whether the prisoner incited, promoted, or assisted in raising this insurrection, with the intent,—not with the incitement to make a riot, and break my windows, or pull down any man’s house, which might have been felony under the riot act, if not dispersed, or might have been a misdemeanor according to the nature of the violence committed,—but whether, to give it the substance of the case, it was done with the intent of forcing a repeal of this law? upon these points, to which you, gentlemen, will call your attention, depends the fate of this trial.”

Then the first is a preliminary one, without which, says my lord Mansfield, my lord George Gordon must be acquitted; but if you are of opinion that the multitude did commit the violence, which no man is disposed much to forget,—whether lord George Gordon incited them to it? No—but whether he incited them with that mind which constituted the crime?

Now I will read all the questions that he permitted to be asked upon that trial.—The trial was conducted by men of the most acknowledged learning, one, indeed, whose learning, acuteness, and knowledge of the common law of England is almost proverbial, the late Mr. Wallace: the other gentleman, Mr. Mansfield, had long practised in the courts of common law, and they were by no means disposed to give up any thing; they would have been disgraced if they had. There is an opposite duty in every trial; there is a

duty in those concerned for the crown, to support the proper evidence for the crown; and a similar duty also upon the counsel for the prisoner, and he is as much criminal who relaxes the one as he who relaxes the other, though when it is in favour of a criminal it would not strike the mind so much;—but I think that a crown lawyer has a right to insist upon every fair evidence coming before a jury, and to exclude every thing which may improperly operate.

The counsel for lord George Gordon were the present lord Kenyon, lord chief justice of the King’s-bench, and myself, who have now the honour to speak to the Court; and I was permitted to ask the reverend Erasmus Middleton\* (the first witness, and therefore his examination fell to me as junior in the cause), these questions;—I should tell your lordships, to make it more intelligible, that the great object was, to see what intention lord George Gordon had, which could be collected only from what passed before;—“Did you, at any of these numerous meetings of this Protestant Association, which you attended from the time lord George Gordon became president of that society,” (which was two years before) “till the 29th of May; did you ever hear lord George Gordon, in his public speeches in that association, make use of any expressions, which showed any disloyal, or unconstitutional intentions in him?”—“Not in the least; the very reverse in my opinion.”—Now compare this with the question I am going to ask; a cunning artful man might stand up in a Protestant Association, and hold forth great professions when he meant the contrary; but no man who reposes confidence in the bosom of a friend, building himself upon the honour and honesty of his friend, when he tells him what his object is, will deceive him.—Good God! if I were to ask people, did not Mr. Hardy, in the Corresponding Society, say that the duke of Richmond’s plan was his object? he might say it there for the purpose of its afterwards being given in evidence that he had publicly avowed that; if that may be asked, how is it possible to oppose the other?—The examination goes on, “Did all his speeches, delivered as president, meet with your approbation; and did it appear to you that his views were the same as those of the whole associated body?”—“Quite so.”—“Did you ever hear lord George Gordon make use of any expressions as if he meant to repeal this bill by force of arms?”—“Not in the least.”—“Were the meetings open?” and so on.†

Lord Kenyon then examined the present earl of Mansfield, at that time viscount Stormont, of every thing said by lord George Gordon, at St. James’s, when he came to ask an audience of the king, and tendered his ser-

\* See Mr. Middleton’s examination, *ante*, Vol. 21, p. 562.

† See Vol. 21, p. 561.



vices to suppress the riots.—He called afterwards sir Philip Jennings Clerke, lord Lonsdale, and many other witnesses, to conversations with lord George Gordon both before and after, and to every part of his conduct and deportment upon that occasion.—It certainly was not debated, I think it the stronger for that, because when a cause of that immense magnitude is tried, where the whole capital was threatened with ruin, and when, as it has been said by the eloquent person we have heard of so much in the course of this trial—that this town, and the whole country were in the utmost peril, I cannot suppose that those who represented government, were disposed to treat lord George Gordon with more lenity than the rules of law entitled him to; yet neither Mr. Mansfield, nor Mr. Wallace, the attorney and solicitor-general, objected to that evidence;—I say nothing of myself, I was then a very young man in the profession, but the present chief justice of England, who conducted that cause on the part of lord George Gordon was, and is, as we all know, a man of great learning, he put those questions without the smallest objection falling from lord Mansfield, or Mr. Justice Buller who now hears me, or any other person.

The next case I shall state is that of my lord Russell,\* who was indicted for compassing the king's death, and the overt act was consulting to raise rebellion, and to seize the king's guards. In his defence he called many persons of quality to speak to his affection towards the government, and his detestation of risings against it; I will pause here a minute, —why a man might have a great deal of affection to the government in the year 1780, and might change upon the subject, but yet the criminal law of England looks out industriously to see how it can interpose in favour of liberty and life, not trying how it can shut out the light, but how it can let it shine in; even that question, which I do not think one of the strictest, was suffered to be let in, because Dr. Burnet had had a long acquaintance with lord Russell, and lord Russell might not have conceived the purposes of rebellion till a short time before; but I shall ask, as to the time when they say this man's mind was full of this conspiracy, so horrible in its nature, what were the sentiments which he was pouring into the bosom of his friend, as the object of all these societies.

"Doctor Burnet," (says lord Russell) "if you please to give some account of my conversation?" Doctor Burnet says, "I have had the honor to be known to my lord Russell several years, and he hath declared himself with much confidence to me, and he always, upon all occasions, expressed himself against all risings." Now this is not character, to say that lord Russell was a quiet, peaceable man; *no, this is evidence of conversation, my lord*

Russell declared so; therefore it is not that you are to raise a probability upon the subject by the general nature of a man's character, or what you think of him; but it shall be allowed to witnesses to say what the person trying has expressed, because it raises an intrinsic improbability of his being guilty of the crime imputed to him; doctor Burnet says, "he always expressed himself against all risings; and when he spoke of some people that would provoke to it, he expressed himself so determined against that matter, I think no man could do more."—Does his saying this, acquit lord Russell of this rising; you heard him say he was against all such risings "as are now the subject of inquiry before you?"—"I heard him speak with indignation upon the subject."—From thence the jury might infer *valcat quantum valere potest*—I do not say it is to conclude any thing; I do not say that that sort of evidence is at once to put an end to any cause, no man can be so foolish as to fancy that, but as far as it goes what is to become of it after that evidence is heard, it is not for me but for your lordship and the jury to decide; the jury ultimately, but we shall all be happy to hear your lordship's observation upon it; but the question is when it shall be heard, what impression it will make upon both.

Doctor Cox was then asked the same questions by lord Russell, and he says, "I have heard him profess, solemnly, he thought it would ruin the best cause in the world to take any of these irregular ways for the preserving of it."†—Your lordships will give me leave to pause again here.—This is not even a declaration of lord Russell, indicative of his general ideas, but upon the very point of trial; that he, doctor Cox, had heard the prisoner express his indignation and contempt for proceedings like those imputed to him.—As I go along, let me bring back to your lordships consideration what it is I want to ask, and I have a much more recent authority, the authority of one of your lordships, since the cause began;—What, shall a man not be allowed to explain his own meaning? If a witness had said, the defendant held a conversation for the purpose of overturning the government, still I should have thought I had a right to examine the evidence, where a man's expression goes directly in the teeth of what he has written; but where, as your lordship has expressed upon another occasion, where upon the surface a thing appears to be legal, that the crime consists in the veil and covering of a wicked and detestable purpose, that it is a matter of fact merely—a matter of the most serious investigation, that your lordship will take it as a matter that no man, in common life, between man and man, would throw upon his neighbour, but upon the most clear and satisfactory proof; it is upon this ground that

\* See the case of lord Russell, ante, Vol. 9, p. 577.

\* See Vol. 9, p. 622.

† See Vol. 9, p. 622.

we have a right to raise up in the minds of the Court an intrinsic evidence, to operate as character does, for how is it that character is admitted against a fact?—I have heard a judge say here, if a fact is proved by ten witnesses distinctly, it is not possible to suppose that ten witnesses are perjured, who swear that I have stole a horse; my character might create compassion with a jury, but could not do more, because there is much more probability that a man who has hitherto maintained a good character should steal a horse, than that ten men should combine to destroy an innocent man when there is no reason to impute the crime to them; but when it remains matter of doubt, whenever the question is, What you have done? and the consequent question is the quality of the act, and when your lordships are to fix the quality upon it, and to consider, not whether it be the act, but whether it be the intention—suppose the jury should find that he had summoned a convention to do that which I know he did not, yet they must farther find that he did it in the language of the record, in the farther fulfilment of his detestable purpose.

Mr. Luton Gore, and doctor Fitzwilliams were examined to the same point; \* this trial was before lord chief justice Pemberton; sir Robert Sawyer, whose name I have had occasion to mention (who was not a gentleman fond of making very great concessions, I do not mean to say he ought, he was a most rigid man), was attorney-general, the celebrated Mr. Finch was solicitor-general, and upon that trial your lordship sees all these questions are put without any objection.

The next case is that of Thomas Rosewell† who was a dissenting minister; he was indicted for preaching a treasonable sermon; besides giving evidence directly denying the charge, he called several of his congregation to prove that he generally kept the 30th of January as a fast, and frequently preached in favour of kingly government. Now only consider the difference of these two cases; there the preaching the sermon was proved—I have looked at the trial, because I saw this question brewing some days since, and therefore prepared myself for it—Rosewell was charged with the publication of a libel in preaching this sermon;—of a libel, for we all know that words cannot amount to high treason, but they may be so indecent as to be libellous, and may be of a treasonable nature, according to the subject. Then what was the evidence against the defendant? It was that A. B. C. D. heard him say the words; what is his answer to that? not at all what mine is, he wanted to raise up before the court and jury, a probability that the witnesses were either perjured or mistaken, because of the improbability that a man, who kept regularly the fast of the 30th of January,

and who preached regularly in favour of the kingly government, should upon any one given occasion, such as imputed, have contradicted the general habits of his life, and libelled that government which he was accustomed to support;—but that is not my view in calling Mr. Stuart, for my learned friends have fixed no such object upon my client; he has called a convention they say, and they say farther that he did it for a purpose, which I deny, and in fulfilment of another purpose, which I deny.—Am I not from these authorities to be allowed to produce the same sort of evidence in support of this poor shoe-maker, which the greatest men of the country have ever had an opportunity of doing without the smallest doubt? Mr. Rosewell says, “Did you ever hear that I should say any thing ill of the king or government?” Mr. Strong, “No never.”\* Mr. Rosewell asks Atkinson, another witness, “That which I call you now for, sir, is to testify what you heard upon the 30th of January from me, about praying for the king and all that are in authority?” Atkinson, “my lord, he kept that day, the 30th of January, as a day of fasting and prayer, and he preached from that text on the 1st Timothy 2, 1. “Pray for kings and all in authority.” That was not the sermon for which he was indicted; but in order to show that it was not probable he should have preached such a sermon as he was charged with, he shows that at a recent time he had preached differently;—and certainly it is fair evidence; a man is not a republican on Monday, a monarchy man on Tuesday, and a republican again on Wednesday, his sentiments do not change in a moment.

Mr. Atkinson proceeds in his evidence and says, “and then he did assert that kingly government was most agreeable to the word of God, and the constitution of the government of England.”† My lords it is material that you should know who tried this cause, lord chief justice Jefferies tried this cause, and it is stated that he received the evidence; and Hume, the historian, remarked, such was the effect that had, that the jury of course convicted him, as they would every body else; that the chief justice did not even sum up the evidence, but contented himself with railing against conventicles.

The next is Henry Cornish's case; in 1 James 2nd, 1685, and when were these cases? at the very worst times in this country, when judges were, what none of your lordships can, in the nature of things, be, men dependent upon the crown. Henry Cornish was indicted for compassing the king's death;—the overt act was conspiring with lord Russell and the duke of Monmouth to levy war;—he called several witnesses to testify his loyalty, and though the witnesses were discouraged,

\* See it *antè*, Vol. 10, p. 197.

† See Vol. 9, p. 624.

VOL. XXIV.

\* See Rosewell's case, *antè*, Vol. 10, p. 209.

† See Rosewell's case, *antè*, Vol. 10, pp. 214, 215.



they were permitted to swear that they thought him loyal, and that he often drank the king's health.\* Lord chief justice Jones was the judge who tried the cause, sir Robert Sawyer was still attorney-general, and Mr. Finch solicitor-general.

John Ashton was indicted, in 2 William and Mary, for a conspiracy to dethrone king William, and compass his death; the counsel for the crown, in the opening, charged the prisoner with an intention to introduce popery; in answer to which he gives evidence, which is to be found in the State Trials† of his zeal for the Protestant religion, and aversion to Popery.

The crown say, that Mr. Hardy conspired to call this convention, which was to be assembled of delegates from some societies, of one of which he was secretary; which convention was to be assembled for the detestable purpose of subverting the government, deposing the king, and procuring his death; therefore I want to prove what was at that time the state of this man's mind; what it was that he was constantly considering, erroneously, or otherwise; and upon this case it is not necessary for me to justify what the illustrious person, who is here present, has published; whether it was wise, discreet, and legal in the duke of Richmond to publish that, I have nothing to do with; and if my client were charged with publishing that which is put into the hands of the witness, after what has been ruled in the King's-bench I should not have offered it, because your lordships would have said that the publication of this as a libel, which constitutes that crime, would not be protected by the duke of Richmond having published the same libel at another time; or with your intention being only to publish that which the duke had set you the example to publish.—But when the question is what the intention of the mind of the man was? and when you have seen the duke's plan,—I do not choose to affront a noble and honourable person, the pleasure of whose acquaintance I have long had,—the duke would have thought, and I should have thought, I had affronted him, if I had asked, did you, when you wrote this letter, mean thereby to depose the king, and to put him to death? He had no such intention, he could have none, his own interest is deeply involved in the safety of the state, he is himself of the same noble blood with the family now upon the throne. Then I wish to know if I may not be allowed, upon the authorities I have cited, to ask the witness this question?

My lord, in the case I last stated, doctor Fitzwilliams, one of the witnesses examined upon this point, says, "he, (that is the defendant) has always taken occasion, that I know several times, both at St. James's and at

Edinburgh, to testify his zeal against Popery."

—The very charge upon the record being to restore king James and bring in Popery. The man's mind is proposed to be, and is consented by judges to be decyphered, *enleat quantum valere potest*, by his uniform declarations of his detestation of those principles which the charge supposes him to have entertained. This trial was before that most excellent judge lord chief justice Holt, and was conducted on the part of the crown by serjeants Thompson and Tremain.

The next is the case of sir John Freind,\* whose trial you have heard of in the course of the cause, who was indicted for compassing the death of king William, and promoting an invasion and rebellion within the realm; and in his defence he called many witnesses, not to his character, for I take it that the meaning of witnesses to character is this,—for instance, put the case of a man who is charged with a crime of any particular description, suppose a man charged with an unnatural crime, would it be any evidence at all to that man's character that he paid his bills regularly, and that he was not a dishonest man, or any thing of that sort? No, your examination to character must always be analogous to the nature of the charge, and you would there inquire, whether he was a man of chastity, you would inquire into his regard for women, into his morals, and into his conversation, so as it might rebuff any such horrible and detestable idea having passed in his mind, that he was a man capable, in the ordinary course of his life, of entertaining such opinions, and making use of such expressions;—so if a man is indicted for any other offence, if a man is indicted for a robbery, I say I will show you that he was not a necessitous man, that he possessed a large fortune at that time, that he was a man whose ideas were moral and totally contrary to any such practice, that is the nature of character; but I am not even asking that, I have been allowed to ask already, and was not obstructed in it, as to Mr. Hardy's character for peace and quietness, but I am not asking that; but in the cases I have cited, that general character was permitted farther to be evidenced by that which it always must produce, "out of the fulness of the heart the mouth speaketh;" it does not always speak out of the fulness of the heart in public, in private it ever does, but whether it does or not I am not inquiring into.—The jury may think after I have given the evidence, that it proves nothing, or little better than nothing: I hope they will not think so, but we are now considering whether it shall be heard, not what it amounts to when heard.

In sir John Freind's case, he says to the witness—"When you have been in my company, and they have been speaking of the government, what have I said or done?"† Is

\* See Cornish's case in this Collection, Vol. 11, p. 434.

† See Ashton's case, *antè* Vol. 12, p. 792.

\* See it in this Collection, Vol. 13, p. 1.

† See Vol. 13, p. 39.



that any thing like character? Suppose at this moment I should turn about to Mr. Stuart and say, when you have been speaking of government with Mr. Hardy, what has he said or done? If my friend chooses to close the debate here, I will change my question to that, when you have been speaking with Mr. Hardy, upon the subject of the government of Great Britain, what has he said, or done? Why, says he, whenever I made use of any reflecting words upon the subject, he was used to say forbear. The prisoner asks "What have you heard me speak of the French, and about any thing of an invasion? how I would venture my life for the Protestant religion or any thing of that?"—A pretty handsome leading question too, but the minds of men are soothed and softened as they ought to be, when a man, after the whole weight and artillery of the crown's evidence has come against him, is standing up in the feebleness of innocence to make his defence.

The attorney general will not, he cannot, think, after what I have said in the course of the cause, that I mean to insinuate any thing disrespectful to him, but only that this prisoner may have full measure, and not more than the full measure; I think he has just as little right to have any more, as you have to refuse him that which he has. Mr. Lupton says, "I have often heard you say, as to the present government, that though you could not comply with it, you would live peaceably under it; when we have been talking of these things, you said you never would be in a plot." Now try that,—when I have been conversing with Mr. Hardy, he said he went upon the duke of Richmond's plan, but he never would be concerned in any plot against the government, never do any thing that was a conspiracy, but meant to limit his intention to any exertions to any given thing the witness will say, and which I certainly shall not put into his mouth.

The next case is in 8 William 3rd, Peter Cook's case, who was indicted for the same treason of which sir John Freind was convicted, and the prisoner in his defence goes exactly to the same kind of evidence adduced upon the former trial. Mr. Serjeant Darnell, who was counsel for the prisoner, says, "What have you heard the prisoner say about our fleet or army?" What has that to do with his character? it was to negative the probability of his wishing to bring to destruction our army and navy, and to bring in a foreign prince who had been expelled from this country for not recollecting what rights belonged to the people of this country; he says, "I have heard him very much wish prosperity and success to our fleet."†

The next is the case of Dammarce,‡ that

\* See Vol. 13, p. 41.

† See Peter Cook's case in this Collection, Vol. 13, p. 372.

‡ See it in this Collection, Vol. 15, p. 531.

familiar case, which we hear of almost every day, in illustration of the principle of constructive levying war;—he was a badge waterman to queen Anne; he was tried for pulling down a meeting house, and which Mr. Justice Foster says, "was held to be a constructive levying of war," and which was not put as an overt act of compassing the king's death. This is a very particular case, here is a man taken in the fact of pulling down a meeting house. Good God! I care not for his affection—if a man is taken in pulling down a meeting house, the law says he is guilty of high treason, for he absolutely does an act which, in construction of law, is a levying war against the king. A man may say I did not intend to levy war: a man comes with a hundred men, and is caught pulling down my house, and says I did not intend to hurt you;—here is an ambiguous thing, a thing which if it be said not to be legal, is totally different from the charge in the indictment; and the office of my learned friend, who objects to my question, is to turn it round and to put a different construction; to put the worst construction, instead of the best construction, upon this man's conduct, and I am seeking to prove that probability, by the same rules of evidence ever adopted, not in a case like this, where the intention constitutes the crime; where it is *voluntas pro facto*, but in cases, even where it is *factum pro voluntate*; I say when men assemble in great numbers to pull down all meeting houses;—for though it would be difficult in the time of Edward 3rd, to say that that was what our ancestors meant by levying war, putting that aside, not to get into interlucutory debates in the middle of an argument, I say this is a peculiar and anomalous case, that its parallel is not to be found throughout the whole circle of the law, and for this wise reason, that his majesty's life is so dear, his majesty's life is so interwoven with the whole principle of the state; his life, as chief magistrate, being that which if destroyed might bring on a convulsion in the country, which convulsion might deprive us of all that is dear to us, the law wisely makes the intention to destroy the king as guilty as the accomplishment, but then the intention is not any thing that you can argue into intention, but must be deduced from acts, which the jury must believe to have flowed from his mind, and to have been the effect of that wicked and detestable purpose;—why then, surely when that is the case, I have a right to ask whether the prisoner meant to pursue the duke of Richmond's plan? and leaving to your lordship and the jury to infer what I thought it would have been an insult to ask, whether, in merely following the plan of a person of illustrious birth, together with a great number of respectable persons some years ago, he meant to commit the crime imputed by this indictment? Surely it goes most strongly to negative that which constitutes the essence of this crime.



Upon the examination of John Michaelmas, Mr. Whitaker, the counsel for Dammaree asked, "was he disaffected to the queen and government?" he says, "I believe no man better affected." "At any times when there have been public rejoicings for any victories, how has he behaved himself?"\* Now the first question is as to character, as affected or disaffected, collecting it generally; but the second is to what has he said, how has he behaved at times of public rejoicings; when you have conversed with him, how has he declared himself; that is not a question to character. The difference between evidence to character, and this species of evidence, is this—as to character, what character has this person, and we have been very properly restrained; I confess I have been irregular once or twice, and so has my friend, Mr. Gibbs, and your lordship has told us of it in a very indulgent manner, for putting questions to character in a different way from what the practice is. You cannot, when asking to character, ask what has A. B. C. told you about this man's character, no, but what is the general opinion concerning him. Character is the slow-spreading influence of opinion, arising from the deportment of a man in society; as a man's deportment, good or bad, necessarily produces one circle without another, and so extends itself till it unites in one general opinion; that general opinion is allowed to be given in evidence. But this case is totally foreign to that, as it is a declaration of the prisoner to an individual witness upon a particular occasion, and connected with the subject under examination.

I shall not trouble your lordship with many more cases, for if these are not sufficient, none can be.

The next is the case of Francis Francia, who was indicted for high treason, in corresponding with the pretender. In his defence, Mr. Hungerford says to a witness, "what do you know of the prisoner's behaviour?"—"It was a great surprise to me when I heard that he was taken up, for he used often to drink a health to king George."†

In Fitzharris's case, he asks a witness whether he thinks the act with which he is charged, was done with a treasonable intention;—that is not objected to, though Jeffries conducted that cause.

Then supposing these authorities to be out of the question, and supposing that these which I have troubled your lordship with had not existed, but that I was obliged to do that which it is my privilege to do, to stand upon

the principles of the criminal law of England, which are full well known to your lordships, without being obliged to look up to other sources. Your lordships all of you have long presided in courts of justice, and I am sure those of your lordships particularly, who preside in criminal courts of justice, having great experience, must think that when the nature of this case is considered, when its anomaly is attended to, when it is recollected that although the statute of 25 Edward 3rd, certainly does not make the overt-act charged upon the record treason, yet when the overt-act is admitted to be charged upon the record, every thing which creates a probability to the contrary, to negative the intention, must be received, provided it be a rational principle of evidence, provided it be of a sort that when one looks round it, one sees nothing by which justice may be surprised and endangered; for I should be extremely sorry to press in the most criminal case, however agitated or earnest I might be upon the subject, for any thing which had not been indulged to others in a similar course of proceedings. I wish as much as any subject of the country can wish, that the law of the land should be administered fairly and impartially; that one man should have what another has had, but no more, and no less; and I conceive that when my friend, the attorney-general, takes this into his consideration, that he will think the cases I have cited, and the principle on which they are grounded, entitle me to have this evidence admitted. I would not have troubled your lordships with the cases, but I considered it as a matter of importance, not only as it concerned the administration of justice in general, but as it concerns the case of the prisoner before you.

Mr. Gibbs.—I submit to your lordships, that this evidence is admissible. My learned friend has exhausted all the law that arises out of the case, and therefore it will not be necessary for me to trouble your lordships upon that part of the case;—but it seems to me upon a plain principle in a case of this sort, the declaration of the prisoner explaining the overt-act, the tendency of which overt-act is the point for the jury to determine, must be admissible evidence.

Your lordships will find it is laid down in lord Hale—I believe it is laid down in many cases, that an overt-act, indifferent in its nature, may yet be explained to be an overt-act committed, tending to the purpose conceived by the prisoner of destroying the king; for instance, the act charged upon Croftan,\* the coming into England was in itself an indifferent act, which became an overt-act of compassing the king's death, because the intent of his coming into England was explained by words spoken elsewhere; and so in many other cases I take it that words spoken

\* See Dammaree's case, *antè*, Vol. 15, p. 582.

† See Francia's case in this Collection, Vol. 15, p. 975.

‡ See Fitzharris's case in this Collection, Vol. 8, p. 354. See also in addition to the cases cited by Mr. Erskine, that of John Hampden in this Collection, Vol. 9, p. 1009.

\* 1. Kel. 13; Cro. Car. 332; Fost. 209; 1 Hale's P.C. 116; 1 East's P.C. 118.



by a man, not only at the time of the overt-act, but before that time, are admissible, for there is no limitation of time within which words spoken by a prisoner may not be given in evidence to explain the nature of an overt-act, charged to be an overt-act in the prosecution of his design of compassing the king's death.

Now if the crown may give evidence of the whole of a man's life, for the purpose of explaining an indifferent act, and giving it a criminal complexion, surely it follows, upon the principle of administering equal justice, that whatever he has said upon the same subject, tending to prove a different intention, an innocent intention, it should be competent to him to give in evidence. I take the distinction to be this—if that which is charged upon a man be an act, if it be a thing done, you cannot in any case give in evidence that the prisoner has denied that he did the thing. The crown in that case may give evidence, that the prisoner did at any time admit that he committed the act, that he did the thing, the prisoner cannot answer that, by showing that at another time he said he had not done it, though you may ask whether he had not held some other conversation which explained the tendency of that. We have it not in question now, whether he did commit the overt-act stated in the indictment, but whether in committing the act, he had, or not, the original design——

Lord Chief Justice Eyre.—Here the design is part of the overt-act; it is described as part of the overt-act.

Mr. Gibbs.—The design is a part of the overt-act in this way—the overt-act of compassing the king's death, is his consenting to the calling together a convention for the purpose of deposing the king; it states first the treason; the treason laid is that he compassed the king's death, and then the overt-act is laid thus—that he, with others, for the purpose of accomplishing the treason, did conspire with others to call this convention, in order that this convention might depose the king.

The distinction that I was taking is this—I know that we have before the jury both the fact and the design as to deposing the king; namely, the fact of consenting to hold a convention, and the design with which it was consented to be held; but we are now about to show what the design was, to exculpate the prisoner from any criminal intention. I admit we could not go into evidence of what the prisoner had said at any time of his life, for the purpose of showing he had not consented to hold this convention, because that is a fact; but I submit with great deference to your lordship, that in order to show that that convention was consented to be held, not with the design which the crown imputes, but with an innocent design, we may go into evidence of what the prisoner has at other times declared, inasmuch as the crown has gone into all that which the prisoner at any part of his

life has declared touching this fact; and not only that, but into evidence of what any member in the London Corresponding Society, any member of the Constitutional Society, or any member of any societies corresponding with those societies have said. As the crown is permitted to go into evidence of what any one of those people have said, in order to prove that the ultimate design was to depose the king, we only ask in answer to that, that we may be permitted to go into declarations of the prisoner of that which can be only found in his own mind; not that he did not do the act imputed to him, but that the design with which he did that act, was different from that which the crown imputes.

I was going to put a case which I had forgot in the course of the argument, which appears to me not unlike this, and which was suggested by your lordship's saying that the design of deposing the king is a part of the overt-act—the case of murder; suppose it plainly proved that the prisoner did kill the deceased, and the question is whether it is murder or manslaughter, that will turn upon the intent. I take it in that case it is the constant, uniform practice to receive evidence of the declarations of the prisoner of his good-will and friendship to the deceased. —Now, why are these declarations received; I am sure I have heard, in innumerable instances, evidence given of declarations of prisoners of good-will to the deceased, when they have admitted they gave the fatal blow, and when the question is, what is the quality of the act committed, whether murder or manslaughter; and the rule, I take it, is not confined to declarations immediately upon committing the act, but to declarations at former times. Why are these declarations received; the act of giving the blow is admitted. So here the calling a convention is admitted, the declarations are received for this purpose, to show what the mind of the man was, what his intent must have been, whether he gave the blow with a view to produce death or not. Then with what view do we offer this evidence? to show his design, whether it was the design the attorney general imputes, or an innocent one. We offer this evidence in order to show that the object of this convention was different from that which the attorney general states, in the same way as the evidence of good-will to the deceased is admitted, in a case where the question is, whether the crime is murder or manslaughter.

Mr. Attorney General.—I rise in the first place to state to your lordships the objection which I have to the question that was addressed by my learned friend to the witness. I hoped that this objection had followed so immediately upon a conduct that I am persuaded betrayed, on my part, no wish to shut out any evidence that appeared to me to be admissible, that my learned friend would sincerely have given me credit, as he now states he does, for making this objection upon



public principle. I beg to say again, what I have had occasion to say before in the course of this trial, that it belongs to every man in a court of justice, as it does to every man elsewhere, to be liable to error; it is not, therefore, with any confidence that I must be right, in the objection which I take, that I presume to trouble your lordships with this objection, but it is in consequence of an opinion that I am right; and if that be my serious opinion, recollecting that I stand here as prosecutor for the public, I am not at liberty, whatever my inclination might be, to sacrifice what appears to my own mind to be a great principle in judicature, adopted and acted upon for the benefit of the public, and, therefore, for the benefit of every individual who forms a part of it.

When my learned friend stated that he had seen this objection brewing for some days, he will allow me to state to him what I do state upon my personal honour, if it be necessary for me to pledge that to him, that so far from brewing this objection, I do state, that I do not look forward enough into cases to anticipate such objections, for I protest I had not foreseen that such evidence as this would be offered, and had not considered it. But the learned and able manner in which my friend has reasoned upon it, I think of itself is some degree of testimony in support of what I am now saying, that it is an objection which, at least, had colour enough in it to invite the minds of two able counsel to apply their abilities to repel the objection, if it should be taken.

Having stated thus much—what your lordship has heard with respect to the case of Holt, and an expression which has fallen from my learned friend in discussing this objection I hope will prevent its appearing to those to whom I am now addressing myself, improper to make this observation upon it. When a motion was made for a new trial, because Mr. Justice Wilson was supposed to have rejected evidence which he ought to have admitted, my learned friend, in the discharge of the duty which he owed to his client, contended as strongly that that evidence was admissible, as he has done this day that this evidence is admissible; and I am perfectly persuaded that if any man had left the court after he had heard my friend, he would have gone out of court with an opinion, which I hope my friend will not be too incautiously industrious in propagating, that there was a difference in the law of evidence, as it affected a newspaper printer at Newark, and as it affected other persons whose paper he proposed should be received in evidence. My lord, I say incautiously do it—and I think it my duty to say it, because when in the course of a trial affecting the life of the person who now stands at this bar, and not only affecting his life, but affecting the interest which every man in this country has in his

own life, and affecting every interest that can be dear to him, I wish my learned friend would at once either decline talking of the difference between a poor shoe-maker and men of higher rank, or that he would state the facts upon which he thinks it fit to hold that sort of language. My lord, we live in a country in which the providence of the law, like the providence of God, is over us all, high and low, rich and poor; and speaking for myself, I desire to be disgraced from this moment, if in the course of this trial, I either have conducted myself, or can conduct myself in such a manner as not to do that justice to this prisoner which the law means should be done to him. I think I should be worthy of that death, and ten such deaths as the prisoner must suffer, provided he is found guilty upon this trial.

Having said thus much, I proceed to state to your lordships that undoubtedly I agree that the questions with respect to the effect of evidence, and the admissibility of evidence, are perfectly distinct:—for instance, if in the case of any person you find him at a tavern, speaking respectfully of the hereditary nobility of the country, and of his majesty, and the situation and character which he holds in this country; and you find, on the other hand, papers in which he holds a perfectly different language upon other occasions; the fact whether he held that conversation at that tavern or not, may or not be evidence according to the circumstances under which that conversation is held.

In the case now before the Court, your lordships will recollect that it has been given in evidence that Mr. Tooke (one of the persons whose name occurs in this indictment) at the Crown and Anchor, upon the 2nd of May, 1792, spoke with great respect of the hereditary nobility of the country, and spoke also with respect of the majesty of the king. Why is that evidence? clearly for this reason (without examining whether it would be evidence for any other reason) namely, that it was a transaction of the two societies met in the course of the business which they had been doing; and it came out also upon the cross-examination, which is another circumstance that will require to be materially attended to. So with respect to the prisoner at the bar—if, for instance, there has been evidence given of the effect of these papers, that the language which he was to hold was to be such language as prudence would permit;—that he received papers which were not communicated to the society; and one private letter, in which a proposition is stated, that monarchy is to be ripped up by the roots; that in the answer to that it is stated to those who held that conversation with him about monarchy—do not talk about monarchy—do not talk about democracy—let your language be confined to universal suffrage and annual parliaments, and all the rest of your objects will follow; I say there may be a great number of these



circumstances given in evidence, but then the question will follow, whether the declaration the man held is given under such circumstances at such time, and in the course of a conversation which makes that declaration evidence.

Now with respect to lord George Gordon's case, if I recollect rightly, the principle upon which the declarations were received in evidence was this—that in that case the declarations were really a fact, for whatever declaration accompanies the transaction, whatever declaration is a part of the transaction that is done, is part of the fact that is doing, and upon that ground the declarations were admitted; it does not weaken the observation at all, that evidence was given in that case, that lord George Gordon went to some magistrate, or some other person, whilst the mob was over-ruling the civil power of the country, for any conversation that was held by lord George Gordon during the existence of these riots, and with reference to them, he being a party in them, was a declaration made at the time, and upon all the principles of evidence, was, therefore, connected with the transaction.

With respect to the case stated last by my learned friend—Crohagan's case, I take that to be as distinguishable from the present evidence upon the same principle, the object was to prove the view with which the man came into England; he declared that he would come into England to kill the king; he did come into England. Your lordship knows that his making the declaration, though it would be punishable in another way, yet still would not be high treason, if he had not come into England; and, upon the whole of the evidence, the coming into England made a part of the transaction with the declaration he had made, it was an overt act of high treason, because it was then understood to be a fact done with the intention which the indictment imputed.

My learned friend has said respecting Rosewell's sermon, that no sermon can be high treason, I will not argue that, but I submit it is very dangerous to state that no sermon can be high treason.—

\* Mr. Erskine.—I said no sermon could be high treason, without being in pursuance of some plan.

Mr. Attorney General.—It is matter of good fortune then that I have stated it. No man in the world will suppose that I mean any thing else than what I am now saying;—it does happen in the course of what counsel are stating, that they may conceive themselves to say what did not fall from them.

Mr. Erskine.—I appeal to every body round me, and the whole public that I did.—I appeal particularly to the whole bar.

Mr. Attorney General.—Then I can only say for myself what I am about to say for my learned friend, that it happens to those whose attention is called to the discussion of subjects, that words now and then which

really fall from gentlemen do not strike the ear of those to whom they are addressed, who ought to hear them; meaning at the same time to say distinctly that I did not hear them, but it is satisfaction sufficient to me that my friend permits they should be put in.

What is the evidence in the case of Rosewell, and many others to which my friend has alluded? In the first place he has not stated with respect to these trials who were the witnesses that were allowed to speak to these facts; he has not stated whether these circumstances were asked upon cross-examination; he has not stated whether witnesses were called to general character, and then gave in evidence these circumstances, in explanation of the general character which they had given; he has not stated whether the witnesses who spoke to these particular declarations were speaking to declarations which did or did not pass in the course of the very transaction which these witnesses were called to prove.

I am not meaning to contend in this case, that it may not be competent for my friend to state every word that Mr. Hardy ever said in the Corresponding Society—every word that Mr. Hardy said in his correspondence with every other society; every word that he ever said in the Constitutional Society; every word which it can be shown upon the evidence proposed had a direct connexion, or which can be properly or fairly connected with the transaction now before the Court; but what I object to is this—that you should call a witness who was not a member of any of these societies, a witness who has already told the Court that he did know but little of Mr. Hardy, that he did not even know he was an associated member of that society, any connexion with which the Friends of the People had disavowed, and that you should be permitted to ask that witness, not this question, whether in the course of any transaction connected with the subject now before the Court, Mr. Hardy made a declaration that could be considered as a part of that transaction, but that you should ask that witness what were the declarations of Mr. Hardy at any time, when he may have seen him without connexion with the subject which is the matter of the present indictment; this will lead a great way; it is not worth while to argue upon the effect of it, for that will go another way; but I wish my learned friends to consider a little if this evidence is let in for a prisoner, it will possibly lead to let in evidence against a prisoner. I am persuaded I do not do injustice when I say that there may be cases, I will say nothing about the present case, because I ought not; but there may be cases in which, if this sort of evidence can be let in upon principle, it may furnish a principle upon which I may be obliged to offer that evidence which, according to my present opinions about evidence,



I have not thought myself at liberty to offer in this cause.

*Mr. Solicitor General*.—I shall trouble your lordships for the purpose of stating the extent to which this principle may go; and your lordships cannot but be aware how extremely important it is to attend to the manner in which questions of this sort have been permitted to pass upon trials.—They are often not attended to, they are often thought unimportant upon particular trials, and therefore not objected to;—nothing can show that in a more striking light than the question which Mr. Erskine stated to have been put in *Fitzharris's* case, “whether the witness thought the act with which he was charged, was done with a treasonable intent,”—which was the very question to be left to the jury. Now that question having been put without any objection to it, shows that in the course of trials of this nature, things are frequently passed over without objection which ought to be objected to, especially on the part of the crown, to whom it is constantly attributed, in all trials of this nature, that they are pressing the prisoner too far;—that sort of odium being constantly attempted to be thrown upon every crown prosecution; those who are employed by the crown are always extremely anxious not to raise objections, where they do not think that the general necessity of public justice requires that they should be raised. Now the objection here I believe, is raised simply upon the grounds of the general necessity of public justice; at least, as for myself, and with that view which I have conceived of the subject, I have been so far from objecting to questions being put, that I have sat silent till now during almost the whole of this trial; but it strikes me that the rules and principles of law, and especially the law of evidence in criminal matters, ought to be attended to with a very considerable degree of care and caution, for unless they are attended to, it is impossible to say to what length, upon the authority of what has passed in particular cases the matter may not be carried.

I have conceived that a question which went to a particular fact, not relative to the charge of the very fact which was in question, never could in its nature be asked with a view to try the truth of the particular charge; general character may be given in evidence, general conduct may be given in evidence, conduct being in effect part of character, but I never did conceive, that in any case whatever, if a man was trying for any act whatever, that you could give in evidence any particular acts that he had done at any particular time, under similar circumstances, and the question which is now attempted to be put, appears to me to be of that nature; if this question can be put, why may not the prisoner at the bar, give in evidence every letter which he has ever written to any person whatever, upon political subjects, in which he may have stated

his own objects in any way in which he thought proper, and, perhaps, with a view to this very prosecution;—it strikes me, that if this is considered, the danger of the admission of such evidence is considerable, and that it is contrary to all the principles upon which Courts have proceeded.

If your lordships advert to the cases cited by Mr. Erskine, and see the manner in which he has stated them, I think your lordships will find that, except as far as inadvertence may have permitted questions to pass unnoticed, they do not press very hard upon the case.

With respect to the case of lord George Gordon, I have looked into it; having the trial before me, it does not appear to me that any one question was put with respect to the words of lord George Gordon at any time, which did not, in effect, form part of his conduct in the very transaction which was in question. Like the cry of a mob, for instance, in pulling down a house, the general cry of a mob is given in evidence against the prisoner, because it was a part of the transaction at the time.

With respect to the other cases, I think it will be found that the questions have really been upon the cross-examination of the witness, and not upon any original examination on the part of the prisoner himself, for the purpose of showing by what he did at one time, what was probably his intention doing another thing at another time.

*Mr. Erskine*.—I hope you will not be offended at me for this interruption which may amend your last observation:—They are all of them taken from the State Trials, and they are all upon original examinations.

*Mr. Solicitor General*.—I will then a little advert to some of them: in *Cornish's* case what was it? He called several witnesses to testify his loyalty, and that he drank the King's health; does that warrant the question which the learned counsel was going to put to Mr. Stuart with respect to Mr. Hardy's particular object in a particular thing? For that is the nature of the question he was going to put.

So in *sir John Freind's* case, what are the questions that were put? When you have been present in company, and they have been speaking upon the subject of government, what has he said or done? Why he used to say, “forbear, I do not admit of any such discourse;” that is evidence of his general conduct with respect to the government of the country, and with respect to his views and intentions as to that government; Mr. Lapton, I think, says, although you would not comply with what was proposed to you, yet you said you would never be concerned in any plot. Now I think that that expression must have been upon a cross-examination, by a person who was called to give evidence of a plot.—I cannot understand it unless it was so. And what was the fact in *sir John Freind's* case? Why the fact was, that it was



proved, as clear as day-light, that he was concerned in a plot. And what a way this is of trying the guilt of a person, with respect to a particular fact, by bringing persons to say, that at a particular time he said he would not be concerned in any such plot as was charged. Would it be permitted upon a trial for murder, for instance, to give in evidence, that the prisoner said he would not commit a murder; and yet as far as I have any conception of this, as stated by my learned friend, it was simply that evidence; and therefore I think it must have been upon a cross-examination—

Mr. *Erskine*.—I tell you it was not.

Mr. *Solicitor General*.—Then I do not understand it.

Mr. *Erskine*.—I see you do not.

Mr. *Solicitor General*.—The manner, sir, in which you have thought proper to conduct yourself towards me, in the course of this trial has been such as reflects upon my character. I will not submit to any man for knowledge of law; I am not used to talk of myself, but I will not be taught by you or any other person, propriety of conduct either in a civil or criminal case; I believe, I know my duty in both as well as you do; and I trust that I shall discharge it.

My lords, the next that was mentioned was Dammarce's case; what was the evidence there? In order to show his general affection to government, it was asked, how has he behaved at any general rejoicings? Is that any thing more than evidence of general deportment?

With respect to Rosewell's case, it seems to me that that is in a great degree general deportment, although I must confess, that it likewise was a case in which I should think that there was a degree of inaccuracy in permitting the question to be put exactly as it was put; but the question really tended simply to this, whether his general deportment was that of a man who was loyal and attached to the government of the country? and nothing more.

As for what my learned friend said with respect to a sermon being, or not, treason; I think there was a sermon which is mentioned in the history of our country;—I mean the sermon preached by Dr. Shaw, at St. Paul's Cross, for the purpose of exciting the people to rise against Edward the fifth, and put Richard the third upon the throne, which was as clear an overt act of high treason as ever was committed. I mention this, because certainly the words which my learned friend has said he made use of, did escape my ear, as well as the attorney-general's; and, which shows that they did escape my ear, I do assure him that I have taken down, in the margin of my brief, that very case of Dr. Shaw, which I then recollected, and that I could not have taken it down if I had conceived he had made use of the words which he says he made use of, and which I have no doubt he did.

VOL. XXIV.

Under these circumstances, from the necessity that there is that in such a case as this a rule should be laid down which can be properly pursued—A rule which men may understand, and, calling upon your lordships attention that we objected to no questions respecting the prisoner's general conduct; also declaring that, for myself, in the view which I have of the case, I would rather have the question asked than not, yet for the sake of general justice, for the sake of what is to be done in future trials, and that other persons in that office, which my learned friend near me now holds, may not when it is produced as an authority against them, have it said that upon this trial (and a solemn one I trust it will be) such and such things were admitted to be given in evidence, and that therefore such evidence ought always to be given; for these reasons it does seem to me important, that your lordships should lay down some rule upon the subject.

Mr. *Bower*.—Notwithstanding we are now not only in a criminal case, but in a case which affects the life of the prisoner at the bar, I make no apology at all for troubling your lordships with the few observations I have to offer, because I not only am conscious that neither myself, nor any one gentleman, with whom I am associated in this prosecution, can possibly conceive the purpose of pressing any evidence against the prisoner which we do not think is competent evidence, but I am confident that there does not exist a creature, about whose opinion I am anxious, that can conceive such a purpose to enter into the heart of any of us.

My lords I conceive that this case, capital as it is, is to be tried upon the same principles of evidence as all other cases are; and it is our duty, as counsel for the prosecution, to resist the admission of any evidence which we think not competently legal, as much as if we were trying a common action of assault and battery, or as if a question could arise upon any subject that could possibly be debated in a court of justice, which imagination could conceive to be the most trifling.

I have always understood, that the declarations of parties are evidence only either in cases where they accompany the act at the time that they are made, or where they have been made at different times, and under different circumstances, totally unconnected with that fact, which is the question under discussion in the Court, in which cases they have always been received in the nature of facts, or rather as circumstances by which the general conduct of the party is to be judged of, as being circumstances, and being declarations given upon subjects to answer no particular purpose, and not connected with that which is the subject matter of discussion at the time that the evidence is given.

Every case my friend, Mr. *Erskine*, has cited, in my opinion, confirms the principle I am now stating; and if your lordship will ex-

amine them, one by one, you will find that in every case, which he has stated, where evidence of this kind has been received, it has been to show the general conduct and character of the prisoner, in circumstances and upon occasions no way connected with the crime of which he was then accused, but as circumstances and declarations in situations from which the jury might collect the general character and conduct of the prisoner.

It is indisputably true, that in the case of murder, evidence has always been received that the prisoner has at other times, upon other occasions, and in different circumstances shown acts of kindness to the deceased, and expressed himself kindly towards him, and they are offered to show that that was the general disposition of the prisoner towards the deceased, from which the jury may collect that it could not be his intention to commit the crime which was imputed to him;—but did any man alive ever hear it asked of a witness, produced in a case of that kind, whether he had heard the prisoner say, that he had no intention to kill the deceased; and that that should be received as evidence, to explain the acts which were proved against the prisoner, upon the evidence given; and upon which the judgment of the Court and jury are to be drawn?

In Holt's case, which my learned friend has cited, in which he has admitted that the judgment of the Court of King's-bench, went along with the opinion of a learned, and most worthy judge, deceased—it appears that the judges were unanimous in thinking, when the fact was proved that the libel was published, that it was not competent to the defendant to explain his conduct, to state how, or in imitation of whom it was, that he had done that act which was then attributed to him as a crime.

In lord George Gordon's case, the declarations there received, come under the other principle, they were properly received, because all of them were declarations immediately preceding or following the act, so as to be considered as accompanying the acts of the moment—they were received upon the principle that declarations accompanying a fact, are a part of the fact itself; and that therefore you must receive them as circumstances of the fact; but there were neither received in evidence, nor offered, the private declarations made by that noble lord, previous to the time when he entered into that levying war, which constituted the crime of which he was accused.

In the other case, which Mr. Erskine has stated, where the prisoner was permitted to ask what a person had heard him disclose; that is on the principle of going to the general conduct—it was not with an intent to show that particular act, which is attributed as a crime in the prisoner, but to show that in former acts, which were considered as a part of his general conduct, the prisoner's disposition

was such and such upon certain subjects, not connected immediately, not apologizing for, and not offered as explanatory of the particular transactions which made the subject matter of the crime, with which he was charged.

In lord Russell's case, when Dr. Burnet was asked to a conversation of lord Russell's against risings, which comes nearer than any my friend has stated, to the principle he wants to support—Is it stated in that case, that any declaration lord Russell had made with respect to his intention, as to the rising in question, or the facts that he was called to answer to was received as evidence—nothing like it—when a man is charged with a particular rising, which constitutes the particular fact of which he is accused, evidence of his general conduct, and general character, declarations of other facts, and other circumstances are offered to prove—not what he said respecting the fact there—but as general evidence of the conduct and intention of the party.

As to Roswell's case, which was, that a clergyman who had taken occasion to insult the government, had at other times preached sermons in favour of government, that comes within both principles; the preaching a discourse in favour of government at another time, is an act done strongly indicative of the intentions, and general conduct of the prisoner, to show that he was well disposed towards government, and I give my learned friend leave, if he can in this instance, to prove five hundred acts, to show that Mr. Hardy has always supported government, and has in his general conduct, done acts as notorious as the preaching of a sermon in support of order, and good government.

The case of sir John Freind was of the same kind; the evidence was not to prove what he had done respecting the particular transaction, but to show that at different times, when there could be no design in view, the conversation not respecting the crime of which he was then accused, sir John Freind had been speaking of government in the way that a dutiful subject ought to do.

In Dammarce's case, the declarations received were directly accompanying the act: the declarations of the mob were received as part of the act, and upon that principle only.

The case last alluded to was, I believe, Crohagan's case, in which was given in evidence against him, his declarations of coming to England, to kill the king; and his coming into England coupled with other acts, to show what his intention was; and there was no declaration to explain the particular act of which he at that time was accused, or which was then the subject matter of inquiry.

I have before stated the case, which my learned friend Mr. Gibbs argued very decently, and as he always does, very ably, as to expressions of good will, that is a case which I do not deny, but the application of which I dispute, because I say that these expressions of good will, are only received in

the way that I have before stated, namely, that they are expressions at other times, upon other occasions, when there is no crime imputed, when they cannot be possibly supposed to have relation to any crime, not then committed, or about to be committed, and which only shows a general good disposition—which in an equivocal act might make it doubtful, whether the party was actuated by malice toward the deceased, or not.

But the evidence offered in this case, is of a very different complexion indeed, and such as I really speak truly when I say I do not recollect ever to have been offered to a court of justice. The crime charged is, compassing the king's death—we can give no evidence of the manner of compassing the death of the king, but by the overt acts which we have charged, and therefore the substance of the indictment is, that you did this overt act, from which this compassing necessarily arises; it is the act I admit to show the intent, which is just like any other fact, in any other case; it is just the same, as when we say a man committed a homicide with a felonious intent; the intent is a part of the crime—but was it ever asked, whether he had said he committed that crime, with a felonious intent?—it is from the acts that he has done, that you are to judge of the fact; and you cannot suffer him, by his declarations, to explain that act, by saying that he did not do it with a felonious intent—I see no difference; the intent is coupled with the act in both cases, as in all it is nothing more than this, that from the facts the intent must be inferred—from the facts here the traitorous intent must be inferred. It would not be competent to a man indicted for murder to say that he did not do the homicide feloniously; that he did not intend to kill the man—and it is no more evidence here when certain acts have been done, which we insist upon necessarily afford a certain conclusion of fact, to say that he intended to do any one act with a different intent from that which is proved by evidence to be the intent with which he acted. It appears to me, therefore, that upon no principle, and upon no authority can the evidence now offered be received, any more than it could be received if it were a declaration—I did not intend to commit a felonious murder, when I did the act.

Lord Chief Justice *Eyre*.—Mr. Erskine, I do not know whether you can be content to acquiesce in the opinion that we are inclined to form upon the subject, in which we go a certain way with you. Nothing is so clear as that all declarations which apply to facts, and even apply to the particular case that is charged, though the intent should make a part of that charge, are evidence against a prisoner and are not evidence for him, because the presumption upon which declarations are evidence is, that no man would declare any thing against himself, unless it were true; but that every man, if he was in a difficulty, or in the view to any difficulty, would make

declarations for himself. Those declarations, if offered as evidence, would be offered, therefore, upon no ground which entitled them to credit. That is the general rule. But if the question be,—as I really think it is in this case, which is my reason now for interposing,—if the question be, what was the political speculative opinion which this man entertained touching a reform of parliament, I believe we all think that opinion may very well be learned and discovered by the conversations which he has held at any time, or in any place.\*

Mr. *Erskine*.—Just so, that is my question; only that I may not get into another debate, I beg your lordship will hear me a few words.

Lord Chief Justice *Eyre*.—I think I have already anticipated a misapprehension of what I am now stating, by saying that if the declaration was meant to apply to a disavowal of the particular charge made against this man, that declaration could not be received;—as for instance, if he had said to some friend of his, when I planned this convention I did not mean to use this convention to destroy the king and his government, but I did mean to get by means of this convention, the duke of Richmond's plan of reform—that would fall within the rule I first laid down; that would be a declaration, which being for him, he could not be admitted to make, though the law will allow a contrary declaration to have been given in evidence. Now, if you take it so, I believe there is no difficulty.

Mr. *Erskine*.—In the first place I cannot help lamenting that I have been throughout this whole business very considerably misunderstood. If I had no other reason for it,—but I have another reason which I will show presently,—but if I had no other reason, in a place so very public as this, it is fit that I should say a few words to the Court.

I agree with Mr. Solicitor General that very frequently an improper odium falls upon counsel; no man can cast his eye upon the State Trials without seeing that an improper odium has fallen upon counsel conducting causes for the crown, in consequence of that humanity which has ever been the characteristic of the English nation. Thinking so, I did that which, perhaps, would have been better hereafter: I went out of my way, and notwithstanding my weak state of health, spoke at some length, and with some anxiety, lest any man should suppose for a moment that I meant to make any such insinuation against any of the gentlemen at the bar—what return I have met with I leave to others

\* See this question again discussed in the Arguments and Judgment as to the admissibility of extracts from a letter from Mr. Tooke to lord Ashburton, on the trial of John Horne Tooke, in this Collection Vol. 25, p. 1. See also, as there referred to, what lord Ellenborough said (in the case of Lambert and Perry, for a libel a. d. 1810, post) concerning the admission of evidence of this sort.



who have heard it, to judge, without making any observation upon it, because it is not for your lordship to redress it.

With regard to Mr. Solicitor General, thus much I have a right to say, and I am bound for myself to say it, I think that any man who improperly gives offence to another, very much forgets the character that ought to belong to him; and if I had given any just offence to Mr. Solicitor General, I should have been the first man without any complaint from him to have given him satisfaction for it; but on the contrary, I have a right to complain of him, for when he had asserted (I took it for granted, from not having heard what I said) that all the cases I cited were upon cross-examination, I thought it would be unmanly in me afterwards to take advantage of that remark in my reply; therefore, in order to enable the gentleman to make such observation upon the cases I cited as would belong to them, when he stated that they were upon cross-examinations, out of a proper courtesy, and from that which belonged to the dignity of the bar, I told him that they were on original examinations, and I should have thought that would have satisfied Mr. Solicitor General that they were so; for I stated in the course of what I said, that I had personally collected them, and that they were on original examinations. After that Mr. Solicitor General goes on, and with great emphasis says, I shall still think that they were on cross-examination; I wrote it down, and every gentleman in court heard it; upon which I said I aver again that they were on original examination: "then," he said, "I do not understand them;" to which I said "I see you do not." Why I would say that to any man that ever existed, here, or any where—if a man tells me that what I aver is not so, I would say to that man what I will not say here. So much for that.

The attorney-general says that the over-ruling Providence of God superintends alike the rich and the poor in this country, as indeed it does over the whole world, and he seemed to be offended, after I had read from the State Trials, what had been allowed in some illustrious cases to noblemen, and some of the first men in the kingdom, that I should speak, feeling as I must feel, if I were not worse than any man whose name is to be found in the State Trials, feeling something for the prisoner;—an allowance ought to be made for counsel for prisoners, as well as for prisoners themselves; that I should make mention of this poor shoe-maker;—but had I not excluded every idea of offence to the attorney-general? Could he think, with the particular kindness with which I have gone out of the way to speak of him in the whole of the cause, could any man think that I meant to bring back again that odium upon the counsel for the crown which I had sought zealously to take off, and which I thought it my duty to do out of respect to the attorney-general? but

it furnishes me with this observation, which if there was, what I think there is not, against the prisoner, it might serve him;—it shows us how little dependence is to be had upon words, and how little it is evidence in high treason what men who are warm will say, because we who were thus warm, and who might be imagined to be really disaffected to one another, are persons who live in social life together, on terms of affection and regard; and, therefore, I am glad this happens, because persons may see how little we ought to depend upon what may be said by Mr. Yorke, or any other man, when found heated at a tavern, or at an alehouse.

This question refers to a period previous to the time of holding the convention, before the convention was thought of, in order to show clearly that this person's opinion, and that his object in being a member of the Corresponding Society, and the secretary, was to bring about the duke of Richmond's object, and by the duke of Richmond's means. If the Court will put that question I have done.

Lord Chief Justice *Eyre*.—You may put the question exactly as you propose; I confess I wished by interposing to avoid all discussion, because I consider what we are doing, and whom we have at that bar, and in that box, who are suffering by every moment's unnecessary delay in such a cause as this.

Mr. *Erskine*.—I am sure the jury will excuse it; I meant to set myself right at this bar: this is a very public place.

Mr. *Daniel Stuart* examined by Mr. *Erskine*.

Did you before the time of this convention being held, which is imputed to Mr. Hardy, ever hear from him what his objects were—whether he has at all mixed himself in that business?—I have very often conversed with him, as I mentioned before, about his plan of reform; he always adhered to the duke of Richmond's plan, and said that will be the plan that will be adopted in the end; I disagreed with him about that, and that occasioned it more particularly to be marked in my memory; we disputed about it, and he always obstinately adhered to it, and stated that to be the object of the society, and his whole object.

Was this said in the confidence of private regard, or in public company, where it might be said ostentatiously?—I was never in public company with him; he and another person were with me one night, and I have had long and frequent conversations with him upon the subject.

From all that you have seen of him, what is his character for sincerity and truth?—I have every reason to believe him to be a very sincere, simple, honest man.

Mr. *Attorney General*.—If this had been stated at first to be the question meant to be asked, I do not see what possible objection I could have to it. Mr. *Stuart*, you have before told me, that your society had rejected all

correspondence with the Constitutional Society?—Yes.

Did you know, or had the prisoner ever told you, that he was an associated member of that society?—I did not know it, and I am very sure he never told me.

Mr. Andrew Stirling sworn, examined by Mr. Erskine.

Are these the minutes of the Scotch Borough Convention?—[Showing a pamphlet to the witness.]—They are.

Robert Ferguson\*, esq. sworn.—Examined by Mr. Erskine.

Were you a delegate to this convention?—Yes, I was.

Lord Chief Justice Eyre.—What is this about.

Mr. Erskine.—I am going to prove the first convention in Scotland, because your lordship recollects the idea of a British Convention came originally by proposition from Scotland; it was not set on foot by either of the two societies in England.

Lord Chief Justice Eyre.—Recollecting what I do of the fact, I cannot concede that fact to you.

Mr. Erskine.—We conceive that upon the evidence it is so, but we will suppose for the present that it was not, still it was a convention which was held, not in England, but in Scotland, and the principal persons assembled in it were of that country, though upon general invitation delegates were sent from England to it. Now it becomes material in the consideration of this evidence to make this observation—the overt act charges this to be a convention held for the purpose of subverting the rule, order, and government of the country. It seems not to have been sufficiently attended to lately that that is the overt act, for in the course of the debate that is just finished, it looked as if it was assumed that the overt-act was the holding a convention, but the overt-act is not for holding a convention, for any two or three people that get together may be a convention; but it is a convention held for a particular purpose, in pursuance of another purpose, which the indictment says was, to subvert the government.—That is the charge. Now I think I have the authority of one of your lordships since this trial came on, for a proposition which, indeed, does not want such high authority to support it, that a convention may meet for legal purposes. Much has been relied upon in the course of the argument of phrases being used from which you shrink back at this time, as applicable to France; the phrases of Citizen—Convention—Honourable mention, and so on. Now what I offer in evidence is to show the jury, as matter of

fact (your lordship regulating the trial according to the rules of law) that there were sitting at the time, and had sat before that time, and immediately before that time, two most respectable bodies of men, one of them consisting of delegates from all the different counties of Scotland, for obtaining a reform in the Commons House of Parliament, and the other a convention of delegates from boroughs associated for a similar purpose. Here again I beg it may be understood, just as in the case of the duke of Richmond, that I am not meaning to argue that, because a convention was held before that time by persons of any description, for purposes such as expressed in that book, and which this gentleman, as a member, was a party to that, although these resolutions should carry with them a similarity to some that have been complained of in this case, that the quality of those that were complained of is at all altered by similarity to those that are not; but that when we are to decide what was the intention of calling this meeting a convention, and to rebut the presumption that they necessarily must, or might be supposed to have meant to stand upon the footing of the government of France, in calling their meeting a convention, and in having delegates from different societies, they were pursuing the same forms which not only had been before that time pursued, but in fact were in the course of being pursued at the same time. The gentleman now called having been a member of that convention, the proceedings of which assembly I now propose to lay before the Court, and that at that time it was a thing universally notorious in Scotland, that there were associations for those purposes.

Mr. Gibbs.—We offer this as evidence of the fact, that there did exist meetings in Scotland which had the name of a convention of delegates, at the time Mr. Erskine has stated.

Lord Chief Justice Eyre.—Is it consented to on the part of the crown?

Mr. Attorney General.—I object to it, and will state to your lordship why I do object to it—

Lord Chief Justice Eyre.—I should be unwilling to admit it, if it were expressly consented to, because it would lead the jury from that which belongs to their consideration, into a history with which we have nothing to do. The duke of Richmond's plan is connected with the evidence, and therefore it was proper to be produced, because twenty witnesses have referred to that plan as the very grounds of their proceeding; but whether a set of gentlemen who assembled, called themselves by a particular name, or what passed in Scotland, or what passed in Ireland; for upon the same principle you may go to that, or to what passed all over the world, for any thing I know, but it entirely carries us from the point, and has in my opinion, no sort of connexion with the

\* See the case of the Earl of Thanet, Mr. Ferguson, and others, A. D. 1799, in this Collection, *post*.

Mr. *Erskine*.—I submit to the judgment of the Court whenever I hear it.

*Joseph Strutt*, esq. sworn.—Examined by Mr. *Gibbs*.

Where do you live?—At Derby.

Are you a member of the society there?—Yes.

What are the objects of that society?—A reform in the Commons House of Parliament.

Had you any view with respect to the other branches of the legislature, either to the King, or the Lords?—No.

Had you, or had any of the members of your society, to your knowledge, any intent to bring about that reform by force?—O dear, no—so far from it, that our society has never met since the petition to parliament was rejected.

*Joseph Strutt*, esq. cross-examined by Mr. *Attorney General*.

After the petitions to parliament were rejected, your society has not met?—I think not once.

Mr. *Erskine*.—I will state to your lordship that I also meant to offer another piece of evidence, in order that I may receive the judgment of the Court upon its admissibility. I shall present to the Court all that we conceive it our duty to present, leaving it to your lordship to decide upon the admissibility, which is matter of law. I was instructed to offer to your lordship evidence of associations in the year 1780 for similar purposes, followed up by resolutions extremely similar to many of those which have occupied much of the attention and consideration of the Court. I will not take up your lordship's time with stating at length the principle upon which I offer it, because I have so often stated it al-

had no connexion, and to which they have not in any manner referred, can possibly influence the present case; we cannot inquire into that transaction, or say any thing about it.

Mr. *Erskine*.—Mr. *Sheridan*, as your lordship very well knows, is a member of the House of Commons, I will call him to prove, that he was about to bring before the House an inquiry into any conspiracy that there might be against the government upon this subject now under examination; that he saw the prisoner at the bar, and had communication with him long, long before the papers in his custody were seized, which are now turned into evidence against him, as papers found clandestinely in his custody as a criminal. I call Mr. *Sheridan* to prove, if the fact be so, that Mr. *Hardy* offered to come forward to give all assistance, to lay every thing voluntarily before the parliament in examination of this matter, which has since been made the subject of inquiry in a court of criminal justice. I produce this evidence because it affords a presumption of his innocence.

*Richard Brindsley Sheridan*, esq. sworn.—Examined by Mr. *Erskine*.

Do you know the prisoner at the bar?—I saw the prisoner once, and but once, I think, to my knowledge.

When was that?—I think in the beginning of the month of March, 1793.

Upon what occasion was it that you saw him?—I had given notice in the House of Commons that I intended very shortly to bring forward a motion, the object of which was similar to that which was adopted in the last session; namely to propose a committee to inquire into the seditious or plots, and the general proceedings of the societies which were then supposed to be promoting seditious



cordingly came to me. I took the precaution, not certainly arising from any thing that I heard of the character of Mr. Hardy, to have two gentlemen present at the conversation, one of which was Mr. Stuart, who was lately examined; I showed Mr. Hardy a publication which had been delivered at the doors of the House of Commons, and of the House of Lords, reporting the proceedings and the addresses of those societies, and giving a list of the different public houses at which the societies met; he went over that book with me, and complained that it calumniated the society he belonged to, and its proceedings—

Lord Chief Justice *Eyre*.—It is not quite regular to go into a general narration, which may introduce a great deal of matter which will not be evidence; the point you are called upon to prove is that Mr. Hardy, upon your conversing with him, offered to assist you in disclosing every thing he knew, and to assist you in bringing forward the inquiry, because as to his declaration beyond that it may not be evidence.—I certainly will confine myself to that;—I should say that Mr. Hardy observed that the information apparently obtained by government was extremely accurate; that the places mentioned as their places of meetings were extremely correct; he afterwards said that the object of the society was very much mis-stated, for that they had nothing in view but a parliamentary reform according to the plan of the duke of Richmond.

Lord Chief Justice *Eyre*.—Not what his conduct was upon it—his opinion.

Mr. *Erskine*.—What his object was upon it?

Mr. *Sheridan*.—Mr. Erskine stated the intention of calling me was to that point; but if I was misled in adding something to it that was not evidence, it was from the fact of a witness just now at the bar having expressly stated that circumstance himself, as having passed between him and Mr. Hardy.

Mr. *Erskine*.—I should not have presumed to have asked Mr. Stuart the question, What was the object of the society? without your lordship's permission, but he said that Mr. Hardy declared his own object, and that of the society to be, a parliamentary reform upon the duke of Richmond's plan.

Lord Chief Justice *Eyre*.—The declaration of the object of the society, and how it was to be pursued, may be a very different thing.

Mr. *Erskine*.—What did he declare the object of the society to be?—The whole object of the society, and his own object to be, obtaining by peaceable means, a parliamentary reform upon the duke of Richmond's plan.

Will you be so good as state what assistance he offered you?—He went through the list of these places, and upon my interrogating him, certainly not presuming that he was bound to answer the question, upon

asking him the fact, whether these societies, having been dispersed, they continued to meet at these public houses; he declared they did not; that in consequence of this publication of government these houses considered themselves as marked, and stating that their members were not persons who spent much money at public houses, that without much reluctance the landlords of those houses had refused to let them meet at their houses. I asked him if they still continued to meet, he said distinctly that they did; that he knew they were watched by government, and had no objection to its being known that all the societies continued to meet in private houses, and he had no objection, he said, to give me the list of the houses where they met, for my information, and that I might read it, if I pleased, in the House of Commons.

Did he know at this time that you had intended making a motion in the House of Commons upon the subject?—I told him that distinctly; I took down a great many of the private houses where he said they met; I dare say I did not preserve the paper, but I had it in my hand when I moved the next day in the House of Commons for a committee to inquire into the conduct of these societies.

Whether in stating the pursuit which parliament had in view, he offered you any farther assistance that might eventually be necessary in the investigation of all that in fact had been done?—He offered me every assistance and information in his power—he offered me a sight of the whole correspondence, copies of all his letters, if I chose it, and expressed an eager wish that my motion might be successful for an inquiry into the conduct of these societies.

I observe you have been present during most of these proceedings; I wish to ask whether he offered you a sight of those papers which have been seized, and you have heard read here in evidence.—He offered me a sight of the whole of his papers, and every book in his possession.

Was that in consequence of any demand of yours, peremptorily as a member of parliament, or a magistrate, or was it a voluntary offer on his part, considering you as a private member of parliament?—Certainly a voluntary offer, appearing to me to arise from a very sincere wish, on his part, that an investigation might be instituted.

*Richard Brindley Sheridan*, esq. cross-examined by Mr. Attorney General.

I understand that this was in the beginning of the year 1793?—I think in March, 1793, I made the motion, and I am pretty confident this conversation was the very evening before I made the motion.

Did I understand you right, that you showed him some book?—I showed him a book, a publication supposed to proceed from the treasury, which had been delivered to the mem-

bers of both Houses, and which he complained very much calumniated the proceedings of these societies.

He did not offer to show you a book that was a Journal of their proceedings?—He offered to show me the whole of the papers and books of his society.

Do you take upon yourself to say that he offered to show you books, or a book, or any Journal?—He offered in general to give every information as to the proceedings which he could give; he said he had no concealment, that he wished to show me any papers, books, or proceedings of the society; I cannot recollect whether he said a book or books, but I must be understood when I say he offered generally to give me every information in his power.

I understood you that he meant to give you all the written information that in the beginning of the year 1793 he could give; but I have an important reason for desiring that he may not be prejudiced by your recollection, when you state the word Journal or Book.—Did he offer to give you the correspondence and a Journal or Book?—It is impossible for me to say that he used the word Journal, or whether he said Book, or Books; but I am positive in the recollection that he offered to show me the papers of the Corresponding Society.

No Book or Journal of the Corresponding Society has been produced; I wish, therefore, to know whether you mean yourself to say that he did mention the word Journal, or the word Book, because I wish if your recollection is not accurate to the word Journal or Book, that that expression may be dropped, inasmuch as that expression may give rise to an observation?—I have just distinctly said that I am not positive whether he said Journal or Book, but his offer was to show me all the papers and other correspondence, and to conceal nothing from me; how he made that offer I cannot expressly recollect, but the impression on my mind was that he meant to withhold nothing from me, but to give me whatever materials were in his power, whether books, journals, or whatever they might be.

Lord Chief Justice *Eyre*.—Your first expression, as I have taken it, was “the whole correspondence?”—The whole correspondence.

Lord Chief Justice *Eyre*.—I do not know whether Mr. Sheridan used the word “Journal.”

Mr. Attorney-General.---Mr. Sheridan did, and I rather doubted whether that was from general recollection, or precise and accurate recollection.

Mr. *Sheridan*.—I made no note of the conversation; I cannot be accurate as to the terms, but must be understood when I say that his offer was to put me in possession of all the papers, and to give me every verbal information.

--- had no conversation with him about

Paine's publications?—I do not think a syllable passed upon that subject.

I understand you that he invited your motion in the House of Commons, which would have given authority to the House of Commons to bring all his papers before it?—Unquestionably.

He knew you were a member of parliament, and invited your motion upon that subject?—I stated my intended design to him, and that I hoped it would succeed.

Are you a member of the Constitutional Society?—I do not know whether I am or not, I was an original member with the duke of Richmond; I do not know whether I have formally withdrawn my name, but I have not attended since the year 1783.

*Philip Francis*, esq. sworn.—Examined by Mr. *Erskine*.\*

Do you know the prisoner at the bar?—I do not recollect his person again, but I have seen him twice.

Upon what occasion was it that you saw him?—I recollect that I have seen him twice, and I believe that is all. The first time at his own house in Piccadilly, in consequence of a letter, or some information which he communicated to me, that it was the intention of the society, of which he was the secretary, or to which he belonged, to return me their thanks for a speech concerning the reform of parliament, which I had made in the House of Commons, and I think I am pretty accurate in this, that it was their desire to have printed the thanks of their society; I went to him to tell him I was satisfied with their thanks, and wished them to decline printing;—that was the first occasion of my seeing him.

When was that?—In the beginning of the year 1793. On or before the 6th of May, 1793, he was sent to me as secretary of that society to which he belongs, to desire that I would present a petition from them to parliament upon the subject of a reform in parliament, and he desired that I would permit him and some others, who were to act as delegates, or who were deputed from the society to me, to come to my house, which they did. I desired to see the petition of course before I presented it; they brought the petition; he was, I think, rather the spokesman; there were four of them, Mr. Margat was one, and there were others whose names I do not believe I ever knew. I read the petition; I said as to the form of the petition, it seems perfectly respectful to the House of Commons, and thinking it the right of the subject, upon all occa-

\* See, in the arguments which were had on Thursday, November the 20th, of this same year (in the case of John Horne Tooke) *infra*, concerning the admissibility in evidence of extracts from a letter to lord Ashburton, which had been written and published by the prisoner Tooke, some observations respecting the scope of this examination.

sions, to petition the House of Commons, or any other branch of the legislature. I had no objection to deliver their petition, but then I told them I had an objection to the prayer of the petition, and I advised them that I must at the same time that I delivered it, declare myself utterly adverse to the prayer of it, which was that the redress for the grievances of which they complained, in the body of the petition, should be by granting to the people of this country what they called universal representation according to the plan laid down by the duke of Richmond.

That the reform they wanted was according to a plan which you did not approve?—I treated it as I have done upon all other occasions; I treated the idea of universal suffrage with the utmost disapprobation, and I told them that if I did present the petition, they ought to know that I should at the same time declare, as I did when I presented it declare, that I had nothing to do with the prayer of it, not that it was illegal, but that in my idea it was improper.

Having offered to you a petition which you thought perfectly legal, but the prayer of which for universal suffrage did not agree with your private opinion; what was Mr. Hardy's answer to that?—Mr. Margarot was the spokesman rather more than Mr. Hardy; Mr. Hardy was present, and I perfectly remember, for I took notice of it in speaking of this matter, that Mr. Hardy seemed a most remarkably reasonable, quiet man; when speaking of this matter it struck me so both then, and when I saw him in his shop. Upon stating these objections, Mr. Margarot and the other two were very ready, and their readiness surprised me, in maintaining the arguments that might be urged on the part of universal representation. I expressed my surprise that men of their rank in life should have the command of such arguments, they said it was not surprising, for they only followed the opinions of the duke of Richmond, and they said whatever my opinion might be, I could hardly make it better. Upon my making this difficulty to present their petition, and stating that, in strict parliamentary propriety, a petition to the House ought to leave the remedy, whatever it might be, in general terms to the wisdom of the House; and that even if I had approved their idea of universal representation, I should have recommended them to leave the prayer of their petition open in a general way; they said that for their part, I believe Mr. Hardy took it upon himself when he said this, and I took notice of the quietness, moderation, and simplicity of the man, as well as his good sense; he said in return to that, that he was sorry they had not known my objection sooner, or to that effect. I have had occasion to recite the circumstances now stated to the Court upon another occasion, which makes me more accurate concerning them; some time ago when I was called upon to mention them at a meeting of our own so-

ciety; I mention that only to account for being so accurate, they said they were sorry they had not known my objections sooner, that it would have been indifferent to them whether they should have stated the prayer as they had done, or left it open; but that now they could not alter it, because the petition was already signed by a great number, I believe nine thousand; that it must be presented that day, the 6th of May, because on that day Mr. Grey had given notice of his motion concerning a reform of parliament, and it was indispensably necessary it should be presented that day, that made it impossible they could alter the prayer of the petition, being signed by great numbers. I said very well, they knew my thoughts upon the subject, and if they were content that I should present their petition, making that declaration concerning the prayer of it, I was ready to do it;—accordingly I did so, and stated to the House my objection to it.

Had it not been that the forms of the House would not admit of the time, did there appear a readiness and willingness to have made it conformable to your recommendation?—Yes, remarkably so; and I was very glad to have that to state to the House.

*Philip Francis, esq.* cross-examined by *Mr. Attorney-General.*

You have said that there was a remarkable readiness to have changed the prayer of the petition, if there had been time enough?—I thought so.

Had you any reason to believe (indeed I am almost ashamed to ask the question)—had you any reason to believe at the time that they waited upon you with this petition, that they had no anxiety at all about the success of it?—On the contrary, they seemed very eager about it. There is a circumstance which I do not know whether it is material. Mr. Hardy told me they had asked Mr. Fox to present this petition, and that he had declined it, because he was an enemy to universal suffrage.

I believe that was mentioned in the letter to you?—And that Mr. Fox had declined it because he disagreed with them in the prayer of the petition.

Then in effect, as it struck your mind, they appeared extremely desirous that the petition should be presented, and were extremely willing that the prayer should be altered according to your ideas, if time would have permitted?—They were extremely desirous to have it presented, and very ready to have left it generally to the wisdom of the House. I am pretty sure, indeed I am certain, that they for their parts, would have been very well contented to have left it so, if they had been sooner apprized of the forms of the House.

They held the language then of men desirous to have a parliamentary reform to the extent the wisdom of parliament could give



it them, and not to use a language which amounted to a determination to accept of nothing less than universal suffrage and annual parliaments?—They did not give up, as the object of their wishes, universal suffrage and annual representation, but what they were ready to give up, and did give up, was, to change the form of the prayer of their petition.

I dare say they did not express to you their determination that they would accept nothing from the legislature but universal suffrage and annual parliaments?—Certainly not—I would not have had any thing to do with them if they had used that language.

I think you said they had determined to print their letter of thanks to you?—That was some time before.

You told them you totally disapproved of the method of universal suffrage and annual representation?—Yes; that was on the 6th of May.

Did you happen to know that they had published what you desired should not be published, together with a pretty strong letter preceding, which I will show you?—No; I do not think they did at all publish it, at least not in a newspaper.

Please to see if this is an accurate copy of the answer you sent them?—[showing it to Mr. Francis.]—I believe it is.

Is the letter which precedes it the letter you received before you presented the petition?—I dare say it is, but I had totally forgot the letter.

Have you any doubt about it?—No, I have not; I see now plainly that they had totally mistaken me.

[It was read.]

"A LETTER OF THANKS, ADDRESSED BY THE LONDON CORRESPONDING SOCIETY TO PHILIP FRANCIS, ESQ. M. P. FOR HIS ABLE SPEECH IN PARLIAMENT, ON THE TENTH OF APRIL, 1793, UPON THE STOCK-BRIDGE ELECTION BILL; TOGETHER WITH HIS ANSWER.

"A Letter of Thanks, by the London Corresponding Society, to Philip Francis, Esq.

"Sir;—The Committee of *Delegates* of the *London Corresponding Society*, having perused with considerable pleasure your truly patriotic speech of the 10th instant, in favour of a *radical reform in the representation of the people*, think it incumbent on them, as friends to reform on that broad basis, for which you have so ably contended, to return you their sincerest thanks, and to express their obligations for your support of a cause, to which their every exertion has long been devoted. United as we are upon the firmest and most patriotic principles, and with the purest of all possible intentions, the good of our country; it gives us the most heartfelt satisfaction to see that those principles and those intentions are not confined to ourselves, but that there yet exists in

—MR SENATE A PATRIOT, who dares  
the cause of his country, and

plead for the people in the face of corruption.

"Too long has the cause of the people languished; influence, interest, or prejudice have precluded knowledge from the senate; or if not precluded, nearly overpowered. The people have seen with sorrow their happiness disregarded, and their rights undefended: the opposition of political warfare has been the effect of party, and the exertion of ability had interest for its stimulus.

"Roused from its torpor, the nation has at last begun to THINK FOR ITSELF. Systems of communication have been formed, and mediums devised to collect the public voice.—Mediums independent of influence, or corruption: such is our society; and from that society, you, Sir, are requested to accept the thanks of an obliged body of men, which knows equally how to value its rights, and esteem the supporters of them.

We have but to wish that from exertions so able, so disinterested as your's, the cause of the people may be *impartially* debated in parliament; and we trust when that is the case, the distinction of party will cease, and a parliamentary reform take place upon the *general ground* of equal right.

Should our hopes in this respect prove abortive, it is impossible to say where may end that spirit of inquiry, which has gone forth among a people, who have not forgot that they are entitled to freedom, and who cannot tamely see themselves plundered of their *rights*.—We are, Sir, with sincere respect, your highly obliged, and very humble servants, to the committee of the London Corresponding Society.

M. MARGAROT, Chairman.

"T. HARDY, Secretary.

"April 21st, 1793.

Philip Francis, esq.,  
St. James's-square."

"St. James's-square, April 22d, 1793.

"Gentlemen;—I received with great pleasure the favour of your letter, and acknowledge it with many thanks, which I beg you will express for me to the committee of delegates of your society, and to the society at large.

"With respect to a parliamentary reform, the utmost that can be done by a few individuals in the House of Commons, and all that can be expected from them is, to take every favourable occasion to agitate the question, and to bring the subject as often as they can into public view and discussion.

"If the people of this country in general, were as hearty and diligent as your society, in supporting the measure by declarations and petitions, I should have little doubt of its success. Without that support, success is impossible. On my part, you may be sure that every thing in my power shall be done to obtain it.—I am, Gentlemen, your most obedient, humble servant,

P. FRANCIS.

"To the chairman and secretary of the committee of delegates of the London Corresponding Society."

Mr. Erskine.—The reading this letter, which I did not call for, gives me an opportunity of asking you, whether you would have answered that letter in the manner you have done, if you had the smallest reason in the world to believe that these people were pursuing their object by such means as are charged to them here this day?—My answer is in general terms of civility, I was not very ambitious of their praise, and did not wish to enter into any argument with them; most assuredly if I had thought that they had any other views but to obtain a reform of parliament, and that in a proper way by application to parliament, and by instructions from the people to their representatives, and such modes as I conceive the laws of this country to authorize; if I had conceived them to have had any other object, I should not only have abstained from corresponding with them, but have considered them as very dangerous men. I thought them very much mistaken and absurd upon the point, but I did not enter into an argument with them.

Mr. Erskine.—The evidence on the part of the crown has been divided into two branches—first to prove by the language and writings of those who have been members of different societies, what their objects were. Secondly, to see how far the prisoner could be legally involved in these objects. In consequence of that, many writings and declarations of Skirving and others, who were delegates to the convention at Edinburgh, have been given in evidence; what I propose to prove to your lordships is, that lord Lauderdale, a peer of the realm, as your lordship knows, had a letter written to him, requesting him to accept the office of delegate in the British Convention for one of the societies comprehended in the scope of this conspiracy. It would, therefore, be very unreasonable to suppose that their intention was to destroy the honours of the nobleman to whom this letter was addressed. If your lordships think it evidence I will offer it. It is dated the 26th of October, just before the British Convention was held.

The right honourable earl of Lauderdale sworn.—Examined by Mr. Erskine.

I wish your lordship to look at that letter [showing it to his lordship]; did you receive it?—I received it just at the time it bears date.

Did your lordship know at that time that the British Convention, as it was called, was about to be assembled?—I certainly did.

I understand your lordship declined being a delegate?—I did; it was an application from a society of the Friends of the People in Portsmouth, part of the suburbs of Edinburgh.

Was your lordship at that time in Scotland?—I had just arrived at Edinburgh.

Were you informed at that time that the different societies in England, and also the different societies in Scotland, were sending delegates to this society?—Yes, I was.

Did you give any answer to that letter?—Yes; I wrote an answer.

I cannot ask what the answer was.—Did you see the persons who brought the letter?—No, I never did; I saw the secretary, Mr. Skirving, antecedently to having received this letter, and I rather suspect that the offer was made to me in consequence of the conversation which passed between him and me. Mr. Skirving then wrote to Mr. Stuart, requesting the Society of the Friends of the People to appoint a delegate to the British Convention. I believe Mr. Stuart's answer, which has been since printed was, that the society not meeting at that time, it was impossible that they could appoint a delegate, but he dare say that any thing I should do would afterwards be approved by the society; an answer I thought rather extraordinary. Mr. Skirving called upon me several times, and pressed me to take up this idea of Mr. Stuart's; I objected—he pressed it upon this ground, that if men of education would come amongst them, it might prevent them from falling into absurdities, which otherwise their keenness and eagerness might lead them to. I declined still to attend upon the ground that Mr. Stuart had proposed; I suspected he had got them to make this representation to me. This letter was written from a Mr. Moffatt, whom I have since known, because he acted as private agent for Mr. Muir and Mr. Palmer.

Is he a man of character?—I then knew nothing of him;—I have seen a great deal of him since that period, and I never knew a more humane man, nor, I believe, a better man.

From any thing you saw at the time these applications were made, had you any reason to believe or suspect that the members of this convention were called together to assume the power of government?—The language was quite the reverse among themselves, that their plan was universal suffrage and annual parliaments.

Was there any thing that led you to believe that that was to be accomplished by force and violence, overpowering and overturning the different branches of our government?—Certainly nothing of the sort.

I put it in the most unqualified way?—O certainly not.

The right honourable the earl of Lauderdale cross-examined by Mr. Attorney General.

Your lordship had not heard of a letter that Skirving had written to Hardy in July, 1793, that has been read in evidence?—At that time I had not.

Nor any of those other letters?—No.

Mr. Erskine.—Will you give me leave to ask my lord Lauderdale what change of opinion these letters have made upon him?

Mr. Attorney General.—That is for the jury.

Mr. Erskine.—It is for the jury both ways, because your question infers, that if his lord-

ship had seen these letters, his opinion would have been the other way.

[A letter read.]

"My lord;—Permit me, in name of many of the members of the society of the Friends of the People in Portsburgh, to have the honour of proposing your lordship as a delegate to the ensuing general convention. Knowing of your lordship's being in this country, we would be inexcusable to our fellow-citizens, if we did not solicit this favour from a man to whom they look up with affection and confidence.—My lord, I have the honour to be, your lordship's most obedient, and most humble servant,

WILLIAM MOFFATT, secretary."

"Horn Wynd,  
Edin. 26th Oct. 1793."

Mr. Erskine.—My lords, I have now closed the defence of Mr. Hardy.

Mr. Attorney General.—Before Mr. Gibbs goes on with the defence, there is a letter from Ashton, of the 26th of May, 1792, which I wish to have read; it was meant to be read, but was forgotten; it is by mistake dated 1797.

"Sheffield Society for Constitutional Information.

"Mr. Adams;—Sir; Your favour of 3rd ult. came duly to hand, the acceptance of our twelve friends as members of your's, is highly satisfactory to this society, and I am directed by them to request you will be pleased to present their sincere thanks to your society for their affectionate regard for, and honour conferred upon the members of this institution.

"It is with pleasure we congratulate you on the rapid progress of real and useful knowledge, and the dissipation of ignorance and error from among the general mass of the people. Knowledge once obtained cannot be obliterated, but by the loss, or abuse of reason: truth once fairly discovered and substantiated, cannot be defaced by the sophistry and wicked designs of artful and crafty men.

"We are happy to inform you that the number of our associating, or ticket, members, keep increasing, are now about 2,400, but they have not increased of late in proportion with our worthy and respectable friends, who (altho' they do not associate with us as an incorporate body) have manifested themselves in a way of respectability, adding strength and support to the undertakings of this society, and to the cause in general.

"On Saturday last, 19th inst. we received a packet of printed addresses, resolves, &c. from the society (Freemasons tavern) which, on mature consideration, we find ourselves not so well reconciled to the ideas they convey to us as we could wish, if they had appeared in a different point of view, nor do they afford us such a flattering prospect as we were appre-

hensive might be expected from an association of so respectable a body, under the high denomination of the Friends of the People. In our opinion, their answer of 12th inst. to your letter of 27th ult. is no ways compatible with that appellation; from the known respectability of many names which appear amongst them, we had entertained great hopes of their real use in obtaining a thorough reform upon the principles of the Rights of Man, which can never be accomplished, until every man enjoys his lawful and just privileges.

"Previous to the reception of this packet, we did communicate to them, by letter, the pleasing hopes it reflected to us, on looking forward, viewing such respectable characters signaling themselves in support of the people's rights, agreeable to the above principles, and the denomination by which they have entitled themselves, &c. In due course they would receive our letter last Thursday se'nnight, and in consequence we apprehend the packet was forwarded to us on the same day, but without any written communication: we shall not attempt any farther communication with them, until we are favoured with your sentiments upon the subject, or until matters of doubt which we at present entertain, be removed.

"We also received a packet from the Friends of the People, Southwark, and they have our hearty concurrence and best wishes; we shall in a day or two forward our reply to them.

"We have also been favoured with an affectionate communication from our friends and fellow labourers at Manchester, and from several other places, who are about to form themselves into societies; Birmingham in particular claims all the assistance from established societies which possibly can be administered, there are great numbers in that place friendly to the cause of the people, and we hope (notwithstanding the late tragical transactions) if prudent methods are adopted and pursued, the people's attention may be turned to their own interest, and the mouths of despots and ranting bigots stopped, which is, and must be the sincere wish of every real friend to the peace and welfare of mankind. I am most respectfully, your sincere friend,

"Sheffield, "SAM. ASHTON, secretary,  
May 26, 1797. Campo-lane.

"Hopes you will excuse for troubling you with the inclosed.

"N. B. Our worthy friend, Vicinus, is Mr. John Payne, of Newhill, near Sheffield, and one of our friends whom you were pleased to accept as a member of your society."

(Addressed) "Mr. Adams, Tooke's-court, Chancery-lane, London."

Mr. Gibbs.—May it please your Lordships;—Gentlemen of the jury;\* I need not state to

\* Here Mr. Gibbs fainted; but in a few minutes having recovered, he proceeded.



you the anxiety that I must necessarily feel upon this occasion, oppressed by the weight of a cause under which the mighty abilities of my learned friend could hardly support him. But, gentlemen, if I can, I will do my duty to that miserable man at the bar; if my strength enables me to go through the defence which I have undertaken, I will defend him; it is not a wish to spare my own strength, it is not a wish to spare my own health which has overpowered me, but it is because I have felt this cause too great for me; I have felt myself incapable of comprehending, in my mind, the vast mass of evidence which the crown has produced against this man. No time which the indulgence of the Court has allowed me, no industry of my own (in which, I assure you, I have not failed) has enabled me so to conceive, in my mind, this vast cause, as to state it intelligibly to you; for so, and so only does the interest of the prisoner, and public justice, require that it should be stated.

Gentlemen, you will remember that, in the outset, it took the attorney-general nine hours merely to open this case; a length of speech unheard of; the annals of this kingdom do not afford an instance of a prosecution founded on so many complicated facts, drawn out of such a tangled web, that less than a speech of nine hours could not render it intelligible to the jury, nor explain to them by what mode of reasoning it was meant to bring the imputed charge home to the prisoner.

To suppose that the attorney-general has stated his case at greater length, or burthened it with more evidence than in his judgment was necessary, would be casting an unworthy reflection on him. His known character renders it impossible. The prosecution itself must be thought to have required for its support this mass of evidence, which it is our duty, as counsel for the prisoner, to observe upon, but impossible, in the time allowed us, to understand. This it is that weighs us down.—Remember the situation in which my learned friend, Mr. Erskine was; you saw how even he was oppressed by it; it was not possible for human ability, and I feel it so, because it was not possible for his standing up to repel a charge drawn by such subtle reasoning, out of such a complication of facts; it was not possible for the ability of man so to comprehend and embrace, in his mind, those facts, as to enable him to lay before you a fair defence for the prisoner.

Gentlemen, in order to make what I have to address to you upon this subject intelligible, it is necessary that I should first state to you what I conceive the law of the subject to be, and what questions that law submits to your consideration in the present case. This is to be looked for—First, in the indictment; next, in the statute upon which the indictment is founded. I say it is to be looked for in the indictment, because it is necessary that the indictment should charge the prisoner with some fact or facts, which, in law, amount to

treason; and you are bound to inquire of nothing that is not there charged.

The charge against the prisoner is, that he has compassed the king's death, and that, for the purpose of carrying that design, entertained against the king's life, into execution, he has done certain acts stated in the indictment. The treason charged is, that he compassed the king's death; the means by which he is stated to have endeavoured to effect this purpose, are,

First, "That he, with others, met, and conspired to procure a convention and meeting, with intent, and in order that the persons to be assembled at such convention and meeting, should and might, wickedly and traitorously, without, and in defiance of the authority, and against the will of the parliament of this kingdom, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government, now duly and happily established in this kingdom, and depose, and cause to be deposed, our said lord the king."—That is the first overt act stated in the indictment; it is not necessary for me to state the other overt acts relative to the convention, because in reality their tendency is the same; it only states the different means they took in order to procure that convention, the ultimate end of which the charge states, was to accomplish the king's death. There are other acts charged, stating, that the defendant conspired "to levy war against the king, for the purpose of deposing him." Another charge is, that "they did meet, conspire, consult and agree among themselves, and with divers other false traitors, whose names are to the said jurors unknown, to raise, levy, and make insurrection, rebellion, and war within this kingdom, against our said lord the king." So that you see the charges, stated in the indictment, against the prisoner, are these.—The first is an act of his mind, that he compassed the death of the king. The next is, that, in order to carry into execution that design, to destroy the king, he did certain acts, stated in the indictment, which acts are alleged to have an immediate view of deposing the king; and from that immediate view of deposing the king, you are desired to infer, that the ultimate object was to accomplish the king's death.

This indictment is founded upon the statute of Edward the third, upon which my learned friend argued very ably and elaborately. You observe that, before this statute, different opinions had been entertained as to what was, and what was not treason; and men had been drawn into the penalties of treason, without suspecting that they had incurred them.

The statute recites, "that divers opinions had been entertained in what case treason shall be said, and in what not; and therefore the king, at the request of the Lords, and of the Commons, makes a declaration of what shall be treason; that is to say, when a man

doth compass or imagine the death of our lord the king, or our lady his queen, or of their eldest son and heir, and thereof be provably attainted of open deed by the people of their condition, it is to be understood that in that case it ought to be judged treason," that is, high treason.

Then the statute goes on with a declaration that nothing but that, which is precisely expressed and specified in the statute, shall be treason:—"And because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at this present time, it is accorded, that if any other case, supposed treason, which is not above specified, doth happen before any justices, the justices shall tarry, without any going to judgment of the treason, till the cause be showed and declared before the king and his parliament, whether it ought to be judged treason or other felony."

You have then the indictment stating these points, which you are to consider, whether the prisoner compassed the king's death, and whether he committed these acts with an intent immediately to depose the king, and ultimately to accomplish his death. The main charge is, that he compassed the king's death. This is the only treason, presented by the indictment, to your inquiry; and this is the only form in which it could have been legally stated in the indictment, since the statute of the 25th of Edward 3rd; if this indictment had varied from the statute in charging any thing as treason which the statute does not make so, it would be erroneous: if former indictments, from the time of passing the statute to the present, had varied from it, without being noticed, that would not alter the law upon the subject, because in cases arising upon a statute, no established form of legal proceedings can control the statute, but must be corrected by it.

In this case, however, the form of the indictment and the statute go hand in hand; it appears from each that nothing shall be treason (nothing, at least, necessary to be considered upon the present occasion), except the compassing the king's death. You will observe the statute says likewise, that the party must be "provably attainted of open deed by the people of his condition." Now, upon this statute, lord Coke, who was one of the most learned lawyers that has ever lived, has commented, and I shall take the liberty shortly of stating his comment, at least that particular part of it, because that will point out to you how careful the law is, and how careful all writers upon the law are, to guard judges and juries against ever extending this statute; it points out the method you ought to use in investigating the charge brought against the prisoner, and therefore I trust it will not be thought useless if I state it to you. The treason charged is, you see, a compassing the king's death; there must be in the mind of the prisoner an intention to effect the

king's death, but that must be proved to a jury by his acts, and on that part of the statute in which the legislature says, "that the party shall be provably attainted of open deed by the people of their condition," lord Coke has thus commented. Gentlemen, where your recollection goes to the argument of Mr. Erskine, which passed some time ago, I am sure you will regret that I should repeat it, but I will only endeavour to bring back those things which may have escaped you.

Lord Coke says, (3 *inst.* 12.) "In this branch four things are to be observed. First, this word *provably*, that is, upon direct, manifest proof, not upon conjectural presumptions, or inferences, or strains of wit, but upon good and sufficient proof; and herein the adverb (provably) provably hath a great force, and signifieth a direct and plain proof, which word the King, the Lords and Commons in parliament did use, for that the offence was so heinous, and was so heavily and so severely punished, as none other the like, and therefore the offender must *provably* be attainted, which words are as forcible as upon direct and manifest proof. Note, the word is not *probably*, for then *commune argumentum* might have served, but the word is *provably* be attainted."

This you see, gentlemen, is an exhortation to you who are to find whether the prisoner is or is not guilty; that you do not find him guilty, without plain, direct, and manifest proof—this is the proof which the legislature requires for the purpose of fixing this crime upon the prisoner; this is the proof which of course you, who are the jury to try his guilt or innocence, must be satisfied has been given in the cause, before you can find him guilty.

Gentlemen, I will trouble you farther, merely with a statement of the way in which judges who have had to try causes upon this statute, have laid down the law to the jury. I shall then have stated to you the indictment—the statute upon which it is founded, the construction of one of the most learned lawyers who ever lived upon that statute, and the acting of one of the most learned judges who has ever adorned the bench (I speak of lord chief justice Pemberton)\* when he sat on the trial of lord Russell, who was charged with an offence of the same sort as that with which the prisoner at the bar now stands charged.

The doctrine contained in that trial is, I suppose, law, because I have heard the trial alluded to in court, and not from the bar, but from the bench. I have heard the summing up of lord chief justice Pemberton, who tried lord Russell, alluded to, as containing the law of the land upon the subject of treason.

My lord Russell was tried upon this statute, and the indictment charged him with compassing the king's death, the overt-act was, that "to fulfil and perfect the said most hor-

\* See the notes in Vol. 8, p. 245, and Vol. 9, p. 580 of this Collection.



rible treason and traitorous compassings, imaginations, and purposes aforesaid, he, the said William Russell, together with other false traitors, maliciously, traitorously, and advisedly between themselves, and with divers other traitors to the jurors unknown, did meet together, consult, agree, and conclude insurrection and rebellion against our sovereign lord the king within this kingdom of England, to move and stir up, and the guards for the preservation of the person of our said lord the king to seize and destroy, against the duty of his allegiance.\*

So you see the charge in that indictment was, that lord Russell had compassed the king's death, and to effect that treason, had conspired to raise insurrection and rebellion against the king, and to seize the guards appointed for the preservation of the king's person. The evidence given in that case went certainly to show, if it went to show any thing, that lord Russell had conspired to raise insurrection and rebellion in the kingdom, and to seize the king's guards, and yet lord chief justice Pemberton in summing up (I state this to show what is the matter for you to inquire into in this case) does not tell the jury that the point for them to consider is, whether the prisoner had conspired to raise insurrection and rebellion against the person of the king; and if they found that, they must find the prisoner guilty; but he tells them this—"now the question before you will be, whether upon this whole matter you do believe"—not that lord Russell had raised insurrection and rebellion against the king, but "whether you do believe my lord Russell had any design upon the king's life, to destroy the king, or take away his life;"—that is the charge which my lord chief justice Pemberton gives to the jury who tried lord Russell, and no man ever complained that the trial of lord Russell was not sufficiently severe—"that (he says) is the material part here, it is used and given you by the king's counsel as an evidence of this, that he did conspire to raise an insurrection, and to cause a rising of the people to make as it were, a rebellion within the nation, and to surprise the king's guards, which, say they, can have no other end but to seize and destroy the king."

So that lord chief justice Pemberton puts it to the jury, that though they believed these facts, yet from these facts they were to collect whether the prisoner had, or had not, a design upon the king's life, for if he had not, they could not find him guilty; if that had not been his opinion of the law upon this subject, he would not have put it to them to say whether lord Russell by this means meant to accomplish the king's death, but would have put it—do you believe he conspired to raise an insurrection and rebellion against the person of the king? if you believe that,

you believe enough; he does not say that—he says they put this to you as an evidence that he meant to seize and destroy the king, and he goes on to say—"it is a great evidence?"—but it is only an evidence—"if my lord Russell did design to seize the king's guards, and make an insurrection in the kingdom of a design to surprise the king's person. It must be left to you upon the whole matter—you have not evidence in this case, as there was in the other matter that was tried in the morning, or yesterday, against the conspirators to kill the king at the Rye."

Gentlemen, I should tell you that either on that same morning, or the day before, some other prisoners had been tried for being accomplices in the Rye-house plot, and a part of that plot was not only to raise an insurrection against the king, but to seize his person, and murder him; therefore lord chief justice Pemberton says—"you have not evidence in this case, as there was in the other matter that was tried in the morning, or yesterday, against the conspirators to kill the king at the Rye. There was a direct evidence of a consult to kill the king; that is not given you in this case; this is an act of contriving a rebellion, and an insurrection within the kingdom, to seize his guards, which is urged as an evidence, and surely is in itself an evidence to seize and destroy the king." So that lord chief justice Pemberton puts it to the jury that these facts are strong evidence of that which they are to inquire into, namely, a compassing the king's death, but he puts it to them as the evidence, and distinguishes the case from the cases in the morning, where the design was, to seize and destroy the king. Where is the need of that distinction, if conspiring to raise rebellion against the king be, as is now contended by the counsel for the crown, conclusively and directly treason in itself? He goes on to say, "upon this whole matter this is left to you; if you believe the prisoner at the bar to have conspired the death of the king, and in order to that to have had those consults that those witnesses speak of, then you must find him guilty of this treason that is laid to his charge,"\*—that is, if you find that he conspired the death of the king; but unless you draw that conclusion from the other evidence in the cause, you cannot find him guilty; this is lord chief justice Pemberton's summing up to the jury; and yet he is complained of by the friends of lord Russell, as having dealt too hardly with him; therefore I think it cannot be imputed to him that he did this in any favour to the prisoner—he states the point for the jury to be, whether they think that the prisoner conspired to put the king to death. I admit that under many circumstances, a jury ought to draw that con-

\* See lord Russell's case, *antè*, vol. 9, p. 579.

\* See lord chief justice Pemberton's summing up in the case of lord Russell, *antè*, vol. 9, p. 636.



clusion, but it is always a question whether they will draw that conclusion, or not. I think upon much consideration of the question, not only that the existence of the overt-act is for the jury, but that it is also for them to find whether the overt-act was committed in the prosecution of that design upon the king's life, which must be stated in the indictment; not only does this appear to be the opinion of lord chief justice Pemberton, but of sir George Treby, who was then recorder of London, and who afterwards was lord chief justice of the Common Pleas. Lord Russell was found guilty—the jury did find from the facts laid before them, from his conspiring to raise an insurrection against the person of the king, and more than that from his design to seize those very guards that are appointed for the protection of the king's person, that he did conspire the death of the king, and I cannot say it was an unreasonable conclusion. You shall hear whether this is an inaccurate expression of lord chief justice Pemberton's, or whether it was generally considered then as the law. Lord Russell afterwards, when he was brought up for judgment,\* desires to have the indictment read to him. When he hears the charge against him of compassing and conspiring the king's death—he starts—he says, "hold, I thought I had not been charged in the indictment of compassing and conspiring the death of the king." The attorney-general says, "yes, my lord, you are." Then he says to the recorder—"I appeal to you and the Court, even if all the witnesses have sworn be true, whether I am guilty within the statute of Edward 3d, there having been an evidence of a conspiracy to levy war, but no evidence of an intention to kill the king; and therefore I think truly judgment ought not to pass upon me for conspiring the death of the king, of which there was no proof by any one witness." That is only lord Russell's argument—how is he answered by sir George Treby? he does not say, what you state to have been sworn to by some of the witnesses is treason, but he says—"that was an exception proper (and as I think you did make it) before the verdict, whether the evidence does amount to prove the charge; that is proper to be observed to the jury;"—Sir George Treby then agrees with the chief justice, that it was for the jury to determine whether the evidence of conspiring to raise an insurrection and rebellion in the kingdom, and to seize the king's guard, does or does not prove a compassing of the king's death; he admits that it is not treason in law, but it may be evidence of compassing the king's death, if the jury think proper to draw that conclusion. He goes on—"for if the evidence comes short of the indictment, they cannot find it to be a true charge, but when the jury has found it, their verdict does pass for the truth—we are bound by the ver-

dict as well as your lordship. We are to go by what the jury have found, not by the evidence that was laid before them."

So, you see, it is plain, in this case from the direction given by lord chief justice Pemberton, in summing up; and from the recapitulation of that summing up, if I may so call it, by sir George Treby, when lord Russell was brought up for judgment, that the point for the jury is, whether the overt act, laid in the subsequent part of the indictment, proves the treason laid in the former part of the indictment, namely, the compassing the king's death. I never will stand up to contend that there are not many acts of this sort stated in my lord Russell's case, from which an honest jury ought always to find that the prisoner did compass the king's death. I think there was in that case, supposing the fact to be proved that he meant to raise insurrection and rebellion in the state against the king, and that he meant to seize the guards of the king, I think that was strong evidence to go to the jury, that his attempt aimed at the king's life, and I cannot blame them for finding the verdict that they did; yet still it was with them.

Gentlemen, having stated what I conceive to be the law upon this subject, and arising from that what the points are for your consideration, I will state to you now the charge, which has been attempted in evidence, to be brought against the prisoner; I have stated it before, but in order to render myself intelligible, I will shortly repeat it—it is, "that he conspired to procure a convention," which convention, when met, was to overturn the government, to depose the king, and to put him to death. To a certain point we are agreed—we agree that he did hold consultations for the purpose of calling a convention—the point upon which we differ is the purpose for which that convention was to be called; and it is for my learned friends who are of counsel for the crown, before they can bring this charge home upon the prisoner to prove one or other of these two things, either that a convention cannot be called for any other but treasonable purposes, or to prove, in fact, that this convention was called for the purpose of procuring the deposition of the king, and thereby his death: they must prove one or other of these two things. Now the first it is impossible to prove—to assert that a convention, or meeting of delegates from different sets of people, cannot be called together but for treasonable purposes, would be absurd, and no such thing can pass from the mouth of either of my friends. You have heard of many, many conventions that have been called; there were two conventions in Scotland, they were not proved indeed, but witnesses did speak of them, and their legality was never questioned.

Lord Chief Justice Eyre.—Is it very fair to allude to them?

Mr. Gibbs.—I allude to them merely as

\* See vol. 9, p. 666 of this Collection.

showing that conventions may be called for lawful purposes.

Then the next thing to be considered is, whether the attorney-general has proved that this convention was called for that specific unlawful purpose which he has stated, namely, to depose the king (for that is the gist of the cause) and thereby to compass his death—they undertake to prove this; we, on the other hand, say, that the convention was meant to be called for lawful purposes;—we say that the prisoner at the bar, and those with whom he acted, believed that corruption had found its way into the state, and was making large strides in it; that he believed this corruption was occasioned, increased, and continued by the long duration of parliaments, and by the unequal representation of the people in the House of Commons; that if these defects could be reformed, all would be well; he knew, and they knew, that a petition to parliament would not produce the end which they wished to procure, because many of their petitions had been, I may almost say contumeliously, rejected; they thought, therefore, that it lay upon them, as good citizens, to find some other means by which they might effect what they conceived to be a lawful purpose; and they believed that if the general opinion of the people was for this reform, and if that general opinion could be made known to parliament, that parliament, though it had rejected the separate petitions of individuals, would yet attend to the general opinion properly conveyed to them; they saw no other way of conveying this opinion to parliament, but by calling together a convention of delegates sent from different parts of the country, by the voice of which delegates they might first collect whether this was, or was not, the general wish of the people, and if it was so, that they might by the same voice communicate this general wish to parliament. This they professed, and there can be no doubt that this the language of their resolutions imports.

On the other hand, the gentlemen who are of counsel for the crown say that all this was mere pretext—you did not think that there was corruption in the state; you did not think that that corruption arose from the unequal representation of the people in the House of Commons, and the long duration of parliament; you did not think that this reform, which you speak of, would produce a remedy—you had other views, and we take upon ourselves to prove that you had them. Certainly it does lie upon them to prove these other purposes; and as the language of our resolutions imports that our intentions were innocent, unless they can show from positive and direct proof, from that plain, direct, and manifest evidence which lord Coke says is necessary in all cases of treason, that the prisoner, and those with whom he was concerned, did endeavour to bring about a revolution in the state, and hurl the king from his throne

VOL. XXIV,

by means of this convention, it is impossible that you can find him guilty of the charge that is now brought against him.

Gentlemen, there are two parts of the proposition which, in point of fact, the counsel for the crown feel it necessary to make out. In the first place, they say we will prove there was a general plot in the kingdom for effecting this purpose, that is for effecting the deposition of the king. In the next place, we will prove that the prisoner, with others, was an actor in this plot, and is implicated in the crime in which they are all implicated. Now you will recollect that for the sake of making out that first part of their proposition, which brings no guilt to the mind of the prisoner—which shows no intention of his to bring about that which is imputed to the others; they have not only called many members of all these societies, but have proved every thing that ever was done or declared by any member either of the Constitutional Society, the Corresponding Society, or any members of any other society that ever corresponded with either of these societies; that they say is for the purpose of proving the general plot. This would not be evidence as against the prisoner individually, but this it is necessary for them to go through, in order to make out the first part of their proposition, that there did really exist a general plot in the kingdom, for the purpose of deposing the king, and afterwards they endeavour to show you that the prisoner was concerned in that plot; this you see does not touch the prisoner, without proof that he was concerned in what they call the general plot.

Now, gentlemen, this certainly does lay us under considerable hardships. I told you before, and I am sure you will afterwards hear from his lordship that nothing of this species of evidence, which is not brought home personally to the prisoner, ought to affect him personally; that it goes only to prove the existence of a plot, and yet how difficult is it for us who stand as counsel for the prisoner; how difficult for you who are the arbiters of his fate; how difficult for the Court, who yet will do it better than either of us can, to distinguish the separate parts of this evidence, to say what tends only to prove the general plot, and what to affect the prisoner personally!

The difficulty upon us is insuperable, not from the nature of the thing, but from the extent of the evidence into which we were carried; for I declare that, with all the diligence which I have been able to use, and with all the time which the indulgence of the Court has granted me, I feel it utterly impossible, in my own mind, to separate them, and, therefore, it is impossible for me to state where the line of distinction lies. If my learned friends, who conducted the prosecution, had first finished their general evidence, and had then gone to that which was to bring it home to the prisoner, we might to a certain degree have been able to distinguish it, but as the case is they have jumbled all



because the effect of these two decisions would be this, that the counsel for the prosecution may argue against the prisoner, from certain facts, which the prisoner, though he knows them to be false, shall not be permitted to controvert. This cannot, surely be supported, and therefore all arguments arising from the use of French terms, must, as it appears to me be excluded from the cause.

Another thing imputed to us is, that we approve the French Revolution.—Certainly the prisoner at the bar, and certainly many of those with whom he acted, did highly approve of the French Revolution;—it was likely that they should approve of the French Revolution, in its origin, because they were Englishmen, and because they were Freemen, and because the original object of that revolution was, to give to Slaves the freedom which we enjoy here. What was more likely to catch the ear, to catch the mind of an Englishman than that a nation, which had certainly been in a state of abject slavery for centuries past, was restored to that freedom to which they were entitled by nature? I know it will be urged against me, that, after that period was past (I speak of the origin of the French Revolution), after acts of enormity, of which no rational man can approve, had taken place in France, that they still approve generally of the French Revolution; but it was not these acts, but the revolution in general, to which their approbation went; and supposing that, under all the then existing circumstances in France, they had expressed a general approbation of the French Revolution, and the state of things, as they then existed in France, is it to be inferred from thence, that they wished the same thing to take place in England? Did the same necessity lie upon us as upon France? Were we an afflicted and oppressed people? Had we any reason to complain of an over-bearing Nobility, whose rights were inconsistent with the general liberty of the people? Had we any reason to complain of the oppressions of the Crown or of the Royal family? Do you find, from the beginning to the end of the evidence, a single complaint of that sort?

You find, in many instances, they speak of the king, and the hereditary nobility of this country, as entitled to reverence and respect.—Was it so in France? Were the king and nobility of that country entitled to the reverence and respect of the subjects of France, as the king and nobility of this country are entitled to the reverence and respect of the people here?—No;—far otherwise; it is not therefore to be supposed, that, because these men approved of the revolution in France, they approved of the late acts of violence that have been committed upon the persons of several of the nobility of that country: It is not to be presumed against the prisoner, that he means to overturn the government of this country and to bring about the destruction of the king, because, forsooth, perhaps, with

a misunderstanding of the subject, he has expressed an approbation of the French Revolution even at a time when a more reasonable man would not have done it.

But more than that, wishes of union with France had been expressed.—Why, gentlemen, what man is there, who, if it could be accomplished with safety to this country, would not wish for an union with France, rather than such a war as the present? This was their object, as it will appear when you hear the evidence summed up by his lordship, from what I remember of a letter, which contains some resolutions addressed from one society to another—I believe the resolution for addressing the National Convention of France;—the motive which actuated them is stated there to be, to prevent the calamities of war. Surely, gentlemen, we have seen enough of this war to conclude, that, if these calamities could have been prevented, it would have been wisdom to have prevented them. The prisoner may have judged ill upon that occasion; those with whom he acted may have judged ill; the war may have been a just and necessary one; I have nothing to do with that; but still you must allow, that a contrary opinion might have been entertained; and if experience has shown that the war was calamitous, and there were circumstances existing, at that time, from which it might possibly be foreseen, that it would be calamitous; if an opinion could possibly be entertained, from the then existing facts, that we might have kept out of the war, surely you will not say, that the prisoner is guilty of high treason for expressing a wish, that an union might take place with France, when he declares, that his reason for entertaining that wish was, that a war which has turned out to be calamitous, might be avoided.

The remarks which have been made on the Address to the National Convention are open to the same answer.

Then the insertion of Roland and Barrere's speeches is attempted to be fixed upon Mr. Hardy; and mark how wide he stands from it; there is a resolution, at a meeting of the society, that certain speeches in the French language, from a French newspaper, should be inserted in their books, and they never are inserted.

Do you think, that that shoemaker understands French? Do you think, that that shoemaker ever read the *Mémoire*? Can you believe that, at the time when that passed, he could have any idea of what were the contents of these speeches?—Not that I admit, by any means, that, if the fact were proved upon him; if he were the person who made that motion, that it proves any thing in this cause. What does it amount to? That he wished to have communicated to the members of this society, what the reasons were upon which those who were desirous of bringing about that calamitous event in France, acted; if he thought those



an insurrection for the purpose of resisting such an act is not high treason.—So the law is expressly stated by lord chief justice Holt in sir John Freind's case, his words are "If persons do assemble themselves and act with force in opposition to some law which they think inconvenient, and hope thereby to get it repealed, this is levying a war and treason, though purposing and designing it is not so." So when they endeavour in great numbers with force to make some reformation of their own heads, without pursuing the methods of the law, that is a levying war and treason, but the purposing and designing it is not so.\*

Why then, gentlemen, if conspiring to raise an insurrection against an existing law, and to resist the operation and execution of that law, be not high treason, *a fortiori*, a resolution, to oppose, if it shall be passed, a law which at present has no existence, cannot be high treason.

The prisoner, Mr. Hardy, is a member of the London Corresponding Society; he and those who acted with him are only affected by the Scotch Convention, as far as that convention acted under their authority, or with their approbation; as far as they acted under their authority—they are not affected by any thing but this resolution. When the convention met they came to some resolutions which I do not find myself interested upon this occasion to defend any farther than this, that they certainly are not overt acts of high treason; to them the same answer applies as applies to this resolution; they do not amount to any conspiracy for the purpose of raising or levying a war against the king's person; nothing like it; and, therefore, though they are such as a quiet and reasonable man would disapprove, yet they are not such as amount to the crime of high treason. I beg you always, gentlemen, to hold it in your minds that the question you have to try is, whether the prisoner, and those persons, with whom he was concerned, meant to call this convention for the purpose of overturning the government, and thereby deposing and destroying the king. Now you will not find throughout the whole course of these proceedings any evidence testifying that intent; you will find strong language used in letters that are written, very strong, perhaps—strong resolutions, but none of them amount to a proof of the crime with which he is charged; nor does it appear to me, however criminal they were, that he ought to be charged with any of the acts of that convention; none of them were high treason undoubtedly.

But how do they endeavour to fix them upon Mr. Hardy and those with whom he acted? merely by showing that when irritated at the fate of their delegates, whom they had sent there, and at that which they were told, from high authority, was a horrid and unjust

judgment against them, they passed some violent, I will say, indecent resolutions upon the subject.

Something is due to the human mind in that state; you will not be extreme to mark what is amiss in a case of this sort; you will look to the intention, and see if any thing is proved against this prisoner, which can bring home to his mind the criminal act charged upon this indictment, and unless you find some one act which furnishes plain direct and manifest proof, in the words of lord Coke, of a conspiring to overturn the government and depose the king, you will cast out of your mind such expressions as I am alluding to, and you will find, however you may disapprove of his conduct in some respects, that he is not guilty of that high crime which is now imputed to him.

It is said (I think it is not supportable in law) that these delegates who met in convention in Scotland were guilty of high treason, and that therefore Mr. Hardy, who was one of a society who sent delegates, and who might approve the proceedings that passed there, that he also is guilty of high treason. I cannot bring myself to believe that it was really thought that the proceedings of the convention in Scotland brought the crime of high treason home to those who assented to them here; because I cannot understand how the conspiring here to do that can be high treason which was not high treason in those who did the thing in Scotland. You know very well, gentlemen, that the delegates, who sat in that convention, were prosecuted; but they were not prosecuted for high treason, but for a misdemeanor. The lord justice Clerk had the same evidence before him on that subject that you have now; if it had been high treason, he would have done that which it was his duty to do; he would not have tried the prisoners for a misdemeanor—he would have told the jury, on the first trial, that they must find the prisoner not guilty of the misdemeanor, because his offence was of a greater magnitude; and a person must not be brought to trial for a misdemeanor when the facts amount to proof of a higher crime. What I say upon this subject is law, his lordship will tell you so, that if a man be indicted for a crime of a lower description, and upon the trial the evidence goes to prove that he was guilty of one of a higher description, he cannot in law be convicted of that crime of a lower description; and therefore I have the authority of the court of justiciary in Scotland; the authority of those who instituted and conducted these prosecutions for misdemeanor only, to say that the meeting of the Scotch Convention, the acts of the delegates (I am not speaking of Downie and Watt, they were not connected with them) were not high treason, and, therefore, the conspiring here to bring about these acts could not be so.

Gentlemen, these appear to me to be the general observations arising out of the matter.

\* See Sir John Freind's case, *ante*, Vol. 13, p. 61.



mayor of Nottingham, the first magistrate of the place, and two of the rioters who attacked his house fell, and the inquest upon that death found it justifiable homicide. What would have been the fate of Mr. Dennison, if he had not prepared himself with those means of defence?—his house would have been rased to the ground, as doctor Priestley's was, and another disgrace would have fallen upon this country, by the destruction of the property of an innocent man, because he had not the means of defending himself against an illegal attack.

These instances show not only the necessity, but the legality of providing arms against such attacks, when we are furnished with means of foreseeing them. But, gentlemen, not only do they take off all effect from that fact which was proved on the part of the crown, that pikes had been provided at Sheffield, but they prove something more. You observe that all the members of the Constitutional and London Corresponding Societies, and the Societies at Sheffield are endeavoured to be implicated in a general plot to call a convention for the purpose of deposing the king, and upon that ground the declarations and acts of all those people are received in evidence against us; we have a right then to ask them, when any of them are called here, what their views were; if their views were to call a convention for the purpose of deposing the king, so far the plot is proved. Then what do the witnesses say? Camage and Broomhead are called by the crown, they say they had no idea of attacking the King, or the House of Lords; they had no idea of any thing but calling a convention which might make known to the House of Commons what was the general opinion of the people; they had no idea of effecting the views of the convention by force, but only by the progress of reason; they meant to collect what was the general opinion of the people of the country, and if it should turn out to be the general opinion that this reform of parliament ought to be effected, then they believed, and I believe too, that the House of Commons would listen to that opinion so signified to them.

Another witness whom they called is Widdison. He comes from the same place, and you will recollect here that there had been given in evidence a letter from one Davison of Sheffield, to Mr. Hardy, stating what was true, that the patriots at Sheffield had provided themselves with pikes for their defence; it is insisted that this defence was all a pretext, but when you come to hear the witnesses for the crown you see that it was not a pretext, that there was real danger of an attack. This Davison writes to Mr. Hardy, informing him that the patriots had provided themselves with pikes for their defence, and telling him where their friends in London might supply themselves with pikes, if they thought proper, for the same purpose. It is imputed to Mr. Hardy that the receiving this letter shows that he

meant to provide this convention, or those who were to act under this convention, with arms for the purpose of supporting their pretensions by force. It turns out that this letter contains another letter, to Norwich, which Mr. Hardy was desired to forward; both the letter to Mr. Hardy, and the letter for Norwich, remained in Mr. Hardy's possession from April 26th to the 12th of May, when they were seized; he does not send that letter to Norwich, and he never mentions to his division that he had received such a letter; he never proposes to any of them to furnish themselves with arms. What then is the fair conclusion to be drawn from these facts? You were in danger at Sheffield, and you provided yourselves with pikes there, and you did right in doing so; but we do not yet feel there is the same danger in London; we do not believe that we shall be attacked; therefore Mr. Hardy takes no notice of this communication; he does not send the letter to Norwich, nor state it to his division, or to any of his friends in London, except in the instance I shall mention presently. I say he took no step upon it, because he is desired to address any answer to one Moody at Sheffield, who is afterwards called as a witness by the crown, and who swore positively that no letter from Mr. Hardy, or any of the society, ever came to his hands; a conclusive proof that nothing was done by Mr. Hardy, or any of his society, at least with his knowledge, upon that letter, and it is, therefore, conclusive proof that he did not mean, upon a concert between him and Davison, to use these arms which were provided at Sheffield for the protection and defence of that society, he did not mean to use them against the government of the country.

Widdison, who is called also to this fact of the pikes, is cross-examined by us as to the purposes of their institution; he and they all join in telling you their object was only parliamentary reform, that they wished to obtain it by peaceable means; that they meant to call this convention, not in order that they might oppose the government forcibly, not in order that they might take upon themselves the functions of parliament, not that they might enforce their opinions by dint of arms, but merely that they might represent to the House of Commons, what was the opinion of the majority of the people.

Hill, another witness, also states the same things; he proves they had the pikes, but he proves that they were provided for the same purpose. Then great reliance is placed upon the evidence of Edwards; it is said that Mr. Hardy did communicate this letter to Edwards, and furnished him with the means of getting these pikes. Now how did he communicate it to him?—Edwards, a forward man, asks him (and it was publicly known that these people at Sheffield had been thus beset, and had provided themselves with these pikes; it was no secret); Edwards comes to



Hardy and asks him if he could give him the direction to a person who made the pikes at Sheffield; Hardy having this letter in his pocket, never having communicated it to a single soul (for, if he had, the prosecutors would have known it, for they have had spies upon him for these three years), being asked by Edwards for a direction to a man at Sheffield, he does give him that direction, and that is the only use Hardy ever makes of the letter he received from Sheffield, and he makes no use whatever of the inclosure to Norwich; Hardy did not want any of these pikes—how came Edwards to ask for them? Not from any communication he had with Hardy; he is the crown's witness, and what he says on one side must be believed, as well as what he says on the other; he had it, he says, for the purpose of defending himself, if illegally attacked. He says great insults had been offered him, and it was for that purpose only that he desired a direction to this man. He made one for himself. Is Mr. Hardy answerable for all his acts? And if he were, what does this amount to? Entertaining, perhaps, a false idea of a danger that threatens him, he chose to provide himself with a pike, and to advise two or three other persons to do the same thing. Is this evidence that can convince any reasonable mind, or can go a step towards convincing a man of common reason that these pikes were procured by Mr. Hardy, and those he acted with, for the purpose of supporting this convention which was to be called, for the purpose of resisting by force the whole united military of this kingdom, and all the armed associations which have been raised in the country?—Three dozen pikes in the hands of a few Sheffield men, and in the hands of a few others into whose hands Mr. Hardy might have put sixty muskets and three French case knives, against the whole army of England! Now is that credible? Can you give ear to such a story? You observe this convention was to be called very soon:—Can you believe that men who really entertained in their minds an idea of enforcing by dint of arms the acts of this convention which was just about to be called, would have taken no farther steps for providing themselves with the means of supporting them, than three dozen of pikes, an order only I think for sixty muskets, and less than half a dozen of French case knives?

Gentlemen, my learned friend suggests to me a fact that fell from a witness to-day when I was not in court, and I am very much obliged to him for it, as certainly it strengthens my observation extremely; he informs me that a witness being asked how many pikes they could have procured in Sheffield (if they had wanted them) in the course of one day, tells you that they could have procured ten thousand. Why then, gentlemen, it is no excuse that though their wants might be large, the means of providing them were not sufficiently large; they had nothing to do but to

signify what they wanted, and if they had meant to support this convention by force in Sheffield, in the most disaffected place, as my learned friend says, that existed in the country, they might have raised an army of pikemen; that is, supposing they had numbers sufficient, into whose hands they might have put them, they might have provided ten thousand pikes in the course of a day; and yet this plan of arming for the support of the convention, which is stated, I think, to have commenced so early as the year 1793, which continued from that time down to the 12th of May, 1794, this array preparing against the government of the country, though it might have been provided with ten thousand pikes in the course of a day, had for its support more than three dozen of pikes; and I do not know whether it was an order, or only a conversation, about an order, for sixty muskets for the Lambeth Association, and three or four French knives. The absurdity and improbability of the thing stares me in the face.

If these people had the will, they had the means; and you are to try whether they had the will; you are to try whether it was the intention of these people to call this convention, and then to act themselves, through this convention, by force of arms; now if you find them making no preparation for this, if you find them not prepared to attack a single company of guards, if it resisted them; it becomes incredible that they should entertain any such project. In most cases of projected insurrection that we know from history, or collect from the State Trials, there is either a party in the country in arms to which the insurgents can immediately attach themselves, or else there are preparations for the levying troops, which troops are to be collected, and to be formed into a body at the time that the conspirators themselves are to rise; but here there is a convention to meet immediately, and yet no proof of that, without which the indictment cannot stand for a moment, no proof of any levies on foot, nor any preparations for raising that force with which it is pretended the convention was to act.

Gentlemen, another witness whom they called is Samuel Williams, and he is to prove not only that Mr. Hardy had provided himself with pikes to enforce the decrees of this convention, but also that he had embodied a file of musketeers to serve under it. Now what does that evidence amount to?

Mr. Samuel Williams, who is a gun engraver, and by that means connected with gun-smiths, ordered a pair of shoes of Mr. Hardy at the end of the year 1793; he wished him to take a gun (this does not move from Hardy originally, but he asked Hardy to take a gun of him). Mr. Hardy is supposed to be a man who had at this time in his mind a plan for overturning the government by force, and for arming either this convention itself, or arming an army to act under this convention; they were not then provided with arms; if Mr. Hardy had any



such intention as this in his mind he would have caught at the proposal immediately; this is a fair opportunity, as far as it goes, there can be no pretence to impute any thing to me in buying this gun, but he refuses to purchase it; it remains with him a fortnight before he can find a chap for it: at the end of that fortnight the man coming again, and ordering a pair of boots, he has then got him a customer. Now is that the conduct of a man who had such a design in his mind as this indictment imputes to the prisoner? for he must have had it in his mind at this time, if at all, because they say that the conspiracy commenced before the delegates were sent to the Scotch Convention; yet if Mr. Hardy had in his mind the arming a troop for the purpose of supporting this convention, surely he would have caught at the opportunity of providing himself with arms in this way, but he does not. A fortnight passes before he could get rid of this gun, and afterwards upon the importunity of this man, who was become his customer, he gets off two or three more.

Then Mr. Hardy is to be affected with the business of Mr. Franklow's Lambeth Association, and Williams says that Mr. Hardy recommended him to Mr. Franklow.—Why it is notorious that Franklow had an association, he made no secret of it himself; those who belonged to his corps wore uniforms, he himself appeared publicly in this uniform at the dinner at the Globe Tavern. I know not whether the association was a proper or an improper one, but certainly it was an open and avowed association—probably Franklow, seeing the country full of armed associations, chose to have one of his own. Whether he had a right to do it, or not, I do not say, but it certainly is not an act of high treason. Seeing that other people, whom he thought no better affected than himself, had raised men, armed, and drilled them, it was not unnatural that he should be desirous of doing the same, especially as he had been in the army before; a sort of *esprit du corps* that might belong to my learned friend. I remember myself being in arms, and acting as a lieutenant under him [Mr. Erskine] at the time of the riots in the year 1780, and very proud we were of our arms, regimentals we had not, but very proud we were of our muskets. I remember no orders from government to do this, no commission from the lord lieutenant; but as other people associated for the same purpose round us, we did it also; and Mr. Franklow instituted his association in the same way; it was a known public thing, there were printed orders and regulations, and he went publicly about in his uniform. To say that because that unfortunate man at the bar recommended Williams to furnish Franklow's association with two or three guns, therefore he must be presumed, without farther proof, to have assisted in raising an armed body for the purpose of supporting this convention by force against the

VOL. XXIV.

established government of the country, is the most alarming proposition I ever heard in a court of justice.—If proofs like these are to implicate a man in the highest crimes, by what caution can innocence itself be secured against such a perversion of evidence? Merciful God! how do we expect that thou wilt look upon us at the great day of judgment if we thus scan the acts of our fellow-creatures here? Because a man happens in communication with another, who is his customer, to recommend him to provide a few muskets for persons who are raising an association, which might, or might not be legal, therefore it is to be inferred that he meant these guns to arm this convention, or their troops, for the purpose of waging war against the government; it is a monstrous conclusion, it would be too disgraceful a thing to insist upon, were it not that there are other circumstances, which I know the solicitor-general will rely upon in his reply, and from which, taking them altogether (for no one of them, taken separately, furnishes any colour of argument), he wishes you to draw the conclusion which this indictment endeavours to affix upon the prisoner, namely, that he has compassed the king's death.

Gentlemen, the next witness whom they call is Gosling, and Mr. Gosling is one of that infamous set of men (for so surely I may call them) who, having no means of supporting themselves, endeavour to procure a livelihood by insinuating themselves into the secrets of others, and discovering them to the government; I do not say that men are not to be charged with acts of theirs discovered by spies, but I say that a man of this description, who gives evidence against persons into whose confidence he has endeavoured to insinuate himself, is to be heard and attended to with very great caution and reserve; his value rises according to the importance of his testimony, he is a more or less valuable witness according as the acts which he communicates to his employers are more or less criminal; he is interested therefore to enhance them, and to that motive it is that I attribute a great deal of the testimony of Gosling.

If a man of this description goes through his evidence fairly, without any objection arising upon the manner in which he gives his testimony; if he relates to you a plain, regular, consistent, series of facts, I admit that you ought to attend to him. But recollect, gentlemen, how this man demeaned himself upon his cross-examination. In his examination in chief he was fluent, he was easy; he had all his facts ready, and he stated them all precisely; but he sunk under my learned friend when he came to the cross-examination, he was confounded and abashed. I shall not pretend to go through the whole of his evidence, the day would not admit of it; but I remember he stated that one of those persons, whom they would have implicated in the guilt of the prisoner, said he had been



going about the country, to corrupt the soldiers, that he had corrupted a considerable number of them, but he had found many who stood out against him. Now, if that had been true, you would have had here all those soldiers who resisted him, as witnesses; there could be no difficulty in calling them, it was an easy thing for government to have collected who the men were whom this person had unsuccessfully attempted to tamper with, and their not being able to discover any of those men whom he had so unsuccessfully attempted to corrupt; there not being called a single witness of that description to support the evidence given by Gosling upon that subject, is a plain proof to me that his evidence in that respect was not true; add to that observation upon his evidence, the manner in which he deputed himself upon his cross-examination, the difficulty my learned friend had to get from him any answers to the plainest questions that he put, and I think you will have no doubt to say that what he swears unsupported by any other witnesses, speaking directly to the same facts, is not deserving of any credit in a cause like this.

Gentlemen, another witness of this description is Lynam, his evidence lasted five or six hours; it is utterly impossible for me to go through it literally, but you recollect that he spoke from notes he had taken, in which he entered short memorandums; he had mistaken a great number of names which he had entered in these notes, Curtis for Carter, &c. as far as they went they were full of mistakes, and there was hardly a single fact that he spoke of which fixed any degree of criminality upon Mr. Hardy, or those with whom he was connected, that was found in his notes, but he related those facts from his memory; if the notes of what he wrote down are so incorrect as to confound one name with another, what credit can you give to his recollection? He tells you that he did not attend to the particular persons who held the conversations of which he speaks, but that this, and that general conversation, passed at these meetings.

Gentlemen, I will tell you why he said this; it might have been dangerous to be more particular; he might have been contradicted; and any thing that had been said, by any of those people, he knew was ruled to be evidence of the general plot; consequently what he stated to have been said in general conversation, among them *there* was evidence.—Who told you this?—Who are the people that used these expressions? From whom did you collect that? He does not know; he did not think it material to observe.—What! a spy; a man whose business it was to collect information for government; a man, who attended the meetings merely for the purpose of coming afterwards and giving evidence against these people—Did not he think it material, at the time

when he attended, to collect the names of those who said this or that particular thing?—Did he not know, that there was a great deal of difference in the degree of criminality, in those who said a thing, and those who were only present when it was said? Did not his common sense tell him that?—Oh! no! he paid no attention to that; only that the conversation did pass. To the memory of a witness, who gives you this account of his attention to such material conversations as he pretends to describe, I think no credit is to be given.—You will observe, whether the evidence he gives of any particular facts, is confirmed by other witnesses of a different description, and to whose testimony no objection lies;—if it is, you will so far give credit to him, but otherwise you will not.

There is another witness of the Lambeth Association brought forward to prove this detestable plot, and that is Mr. Coster, Franklow's apprentice. The account he gives of this Lambeth Association is, that it was public, that Franklow had a cartouch box is true, but that cartouch box lay open, with others, upon the work board; he had regimentals, but we heard in evidence before, that he appeared in them, publicly, at the Globe-tavern.

They come next, gentlemen, to the evidence of a Mr. Groves, and I beg your particular attention to him.—Mr. Groves's evidence had two objects; one was to show, that Mr. Hardy, in furtherance of the design which is imputed to him, and for the sake of arming this convention, which was to act by force against the government, had provided himself with French knives.—Another object was to show, that, at a meeting, held on the second of May, at the Crown and Anchor, such language had been held, by persons connected with Mr. Hardy, and the same society, as showed, demonstratively, that they must mean to overturn the king, and his government.

Now, in the first place, let us see how Groves, in his examination in chief, relates these facts. With respect to the knives, he tells you, that he was at Chalk Farm; that he was in a shed with about ten people; that five or six of them pulled out a little instrument, all exactly alike, which were French knives, and that Pearce was one of them; that somebody said, they were bread and cheese knives, and then a smile went round; that he asked, where they might be got; they said, at Green's, in Orange-street, who was a perfumer and hair-dresser; he says, a week after he went to buy one; and then his object is to show you, that Green had sold a great number of these knives, for the purpose of arming this convention, or their army; and that he had sold them in such a way as to show, that he was sensible of the impropriety of what he was about; he says, Green told him he had sold two or three hundred; he says, he told me to speak very low, for the



parlour door was open, and his wife was a damn'd aristocrat. It is evident he meant, that it should be inferred from hence, that Green, who was one of this society, had plotted with Mr. Hardy, for arming this multitude that were to support this convention; that he had contrived to procure these knives from Sheffield, for the purpose of arming them, and had already collected a body of two or three hundred, thus armed.

Another object that he had, was, to collect the sense of the society, from what passed at the meeting, on the 2nd of May, at the Crown and Anchor; and he tells you, that Mr. Horne Tooke was there, and it is out of his mouth that he collects this.—Mr. Horne Tooke, he says, after dinner got up; he observed, that he supposed, one out of fifty of the people who were there, might be considered as spies, and to them he wished particularly to address himself; the witness did therefore attend to what he said. Mr. Tooke desired the company to observe, that he was not in a state of inebriation, for, having something to say to the company, he had refrained from his glass. He called the parliament a scoundrel sink of corruption; he called the opposition in parliament a scoundrel sink of opposition; he said, that there was a junction between these two scoundrel parties, formed for the purpose of destroying the rights and liberties of the country; he spoke about the hereditary nobility of the country; he asked, if that skip-jack, Jenkinson, could be considered as one of the hereditary nobility. He was asked, how Mr. Tooke had treated the Lords: he said, speaking metaphorically, for which his lordship, I remember, corrected him, that he had paid the Lords pretty much the same compliment that he had the House of Commons; from thence he meant, to be sure, that it should be collected, that he had spoken of it as of the Commons; that is, that it was a sink of corruption, and ought to be purified. These are the two main facts of which he gives evidence.

Now see how this comes out in the course of the cross-examination. First, with respect to Mr. Tooke; you remember, that the question here is, whether the prisoner has conspired to call this Convention, for the purpose of deposing the king, and that this witness was examined for the purpose of proving, that language had been held indicative of an intention to overturn the government, and to depose the king; and that this Groves, in his examination in chief, stated to you, that Mr. Tooke had so spoken of the House of Commons, and of the House of Lords.—How does it come out upon his cross-examination? I asked him, leading him as I might, he being a witness for the crown, whether Mr. Tooke had not said, that the hereditary nobility in the country, were a body ever to be respected? He said, yes, he had; he always had. I asked him, whether his complaint had not been, that, by corruption, improper men were

drafted out from the House of Commons into the House of Lords, by which the Lords were degraded. He said his complaint was, that the sending such men into the House of Lords was a disgrace to those who have hereditary seats there. I asked him then, whether he did not speak with high respect and regard, both of the office and person of the king? He said, yes; he always had; he spoke of this as trenching upon the authority of the king, and that he did not say one word disrespectful to majesty.

Then what does this evidence amount to? —See what is the question between us.—We say, that the object of these men was merely a parliamentary reform; that they wished to bring about annual parliaments and universal suffrage; that their complaint was of corruption in the House of Commons; they thought a parliamentary reform would remedy the evil, and they meant to call a convention for that purpose. On the other side, they say, it was not for that purpose, but for the purpose of deposing the king; and they call a witness to prove, out of Mr. Tooke's mouth, that that was his object. What does Mr. Tooke say? He says, that the evil lay in the House of Commons; so says the prisoner at the bar, and so he always has said; so all those that ever acted with him have said; that it was the corruption in the House of Commons which had given birth to the evils he complained of, and that therefore the representation in the House of Commons ought to be reformed. We say, that they never meditated any alteration in the House of Lords, or any attack upon the king; so says this witness, who is called to prove the contrary; he swears that Mr. Tooke, whose language they are making use of against Mr. Hardy, always said, that the hereditary nobility of the country were a respectable body; that his complaint was, that members of the House of Commons, who did not deserve it, were removed into the House of Lords; that the king always deserved respect; and yet this witness is called to prove, and that from Mr. Tooke's mouth, that the object of this convention was to dethrone the king.

Consider, gentlemen, how very strong this evidence is for us, when it comes out of the mouth of the prosecutor's witness.—We admit, that the object was to induce the House of Commons, hearing the general sense of the people, to reform the representation. This is the opinion of Mr. Tooke; this is the language which he held, and which he held in the presence of that spy.

These observations go completely, not only to put this evidence of Mr. Groves out of the case, as bearing upon this cause, but they go farther, in two respects. First, they go to show (and I am entitled to the full strength of that application of them) that the object, and the only object of these people, was a reform in the House of Commons; that a



man, charged to be connected with them in this conspiracy, did, in their face, absolutely negative any design upon the king, or the House of Lords; that he confined his complaints to the House of Commons; that he spoke with respect of the person and of the office of the king, and yet this witness is called to prove, that they wished to drive the king out of his place in the constitution; he proves the direct contrary; he proves, that the object of all the people there assembled, spoken by the voice of Mr. Tooke (I say, that was the object of them all, because none contradicted him) was, to maintain the dignity of the House of Lords, and to maintain the person and dignity of the king.

Gentlemen, that is not the only use of the evidence of this man; it furnishes us with a fearful example, how much mischief may be done by the evidence of spies; we have no means of correcting their evidence; we know not what will be the course of it; we have no clue to cross-examine them; and it was mere accident, that his testimony did not leave upon your minds the impression, that Mr. Tooke, in this large assembly, had declared himself against both the House of Commons, and the House of Lords; for he expressly said, at first, that he complimented the House of Lords in the same way that he did the House of Commons, and so we should have been fixed with this imputation, that, sitting at dinner with Mr. Tooke, and five hundred people, all of whom are attempted to be connected in this plot, we countenanced a doctrine which was publicly broached in that assembly, that all the Lords and Commons were a sink of corruption, and, consequently, that an attack was levelled at them all; what a situation then would my client have been in, from our not knowing how to examine the witness; from our not knowing how to lead him to the truth, which he kept back, and which he knew to be material, and which he ought, upon his oath, to have told upon his examination in chief; from our not having the clue to his cross-examination, that man at the bar might have been condemned to the extreme punishment of high treason. None but a spy so demeans himself; none but a dishonest man; none but a miscreant, like him, keeps back, in his examination in chief, all that he thinks will make for a prisoner, and delivers all that is against him. I am entitled to say he did so; and from thence entitled to caution you, how you credit the testimony of such witnesses, unless you find their evidence confirmed by other witnesses, speaking to the same fact.

Gentlemen, I have not done with Groves yet; he has been guilty not only of a suppression of the truth, but he has been guilty of direct perjury; a perjury, committed by him, for the purpose of enhancing his own value with those by whom he is employed, at the price of that man's life; a crime which, I am sorry to say, is not in law murder; that,

however, was his object, and I will show you it was his object. I observed, that another part of his evidence went to show, that Green was a conspirator with the rest in this plot; that he had conspired to assist this convention by force, and, in the prosecution of that conspiracy, had already sold two or three hundred knives, for the purpose of arming the conspirators.

Groves says, he went to Green's, for the purpose of purchasing one of those knives; that all was secrecy; Green told him to speak low, for the parlour door was open, and his wife was a damn'd aristocrat. Now the only object that he could have in so representing the thing was, to make you believe, that Green sold these knives in private. Green is afterwards called, as a witness for the crown, and what is the account that he gives of this? He tells you, that, in the fair and ordinary course of trade, he had three dozen of these knives, and he had sold, I think, thirteen or fourteen, each to a different person; he had them sent to him in packages, of six or seven in a package; he says, he sent one package to Mr. Hardy, but that part does not apply to Groves's evidence.

This evidence is, you see, inconsistent with the account that Groves gives; this, however, may not affect Groves with perjury; because, though this is the truth, Green may have given a different account to Groves. With a view to ascertain that, he is asked, did you ever tell Groves you had sold two or three hundred?—O! never! he asked, if the knives were a saleable commodity. I said they were. To be sure, every man will talk in that way of his own wares; there Groves is expressly contradicted. Did you say any thing, testifying any apprehension about selling them? Nothing upon earth; the knives, he says, lay in the show glass, open to the view of the public, a public article of sale; and yet Groves tells you, that he sold to him, privately, and would not let even his wife know, that he sold one of these knives. But here we pin him to a direct fact. Groves says, in terms, that Green told him (Groves) that his wife was a damn'd aristocrat, and desired him not to speak so loud, because the parlour door was open. Now Green, a witness, who is likewise called by the crown, swore, most positively, not only that he did not use the expressions imputed to him by Groves, but also, that he neither mentioned his wife, nor made use of the word Aristocrat. Then here we have one of the crown's witnesses, positively and directly contradicting another of the crown's witnesses, as to a very material fact, slid in by Groves, that these knives were sold by Green, under an apprehension of fear, and in secrecy; it goes farther; for, in stating that Green said his wife was a damn'd aristocrat, he meant you should infer that he, and those with whom he acted, were men of a contrary principle, and men who meant improperly to use these knives. You see the twin he gives it, is en-



deavouring to distinguish between aristocrats, and those who had french knives; that his wife was not to see him sell these knives, because she was a damn'd aristocrat, meaning that Green would have it understood, that he sold these knives to persons of a contrary description, but would not have her know it, because she, being of different principles, would disapprove of it. With these observations I dismiss this witness; he not only does not prove any thing that would be advantageous to the crown, but his evidence is material for the prisoner, and he furnishes you with a lesson, which, I hope, you will not forget, when you are to decide upon the evidence of persons of his description.

I have done with so much of Green's evidence as relates to the contradiction to Grôves. But there is another thing which Green, a witness for the crown, swears to, and which falls in with the rest of our evidence. He is asked, whether he, being a member of this society, and acting with them upon many occasions, whether he had any idea that this society, or any deputation from them, or any convention to which they sent delegates, was either to attack the person of the king, or to effectuate any of their opinions by force of arms? He tells you, in express terms, no, not a man of us, had any such object; our object was parliamentary reform; the means by which we were to effect that parliamentary reform, not being able to effect it by petitions, was, by a convention, to act peaceably. It was first to collect the opinion of the public, and then to represent it to parliament.—We hoped and believed, that that would turn out to be the public opinion, and that the public opinion, being so peaceably represented to parliament, would have its due weight.

Then, gentlemen, after these witnesses, who go to the proof of what had passed in England, they endeavour to implicate us in the guilt of Watt, who has been lately executed for high treason, at Edinburgh, and for that purpose they call Mr. M'Ewan. There is no way by which they at all connect Hardy with Watt, except, I think, that a letter was sent by Hardy to Skirving, who was a member of a society to which Watt belonged; and in a conversation between Watt and Stock, at Edinburgh, it appeared, that Watt was desirous of sending a letter to Hardy, and communicated with Stock, how he might send that letter, without saying what it was about; but no such letter appears ever to have been sent; what the subject was upon which he meant to correspond with him, does not appear; and yet it is in evidence to you, that all the letters that were sent to Mr. Hardy, I cannot say, positively, that it appears in evidence that all were, but there is every reason to suppose, that all the letters which were sent to Mr. Hardy, upon this subject, were seized by the crown; so that, I think, you may fairly infer, that no such letter was sent; there is no evidence in the cause to show,

that he personally knew that any such man as Watt existed, and yet it is endeavoured to affect him, by what Watt did in Edinburgh, though none of the delegates who sat with Watt there, are attempted to be affected by it.

Who is this Mr. Watt? Why Watt was a spy, employed by government, up to a certain extent; he was discharged by them from that employment, I believe, because he over-valued his services; so it appeared, I understand, upon his own trial; being discharged by government, he continues to associate with the Scotch Convention, and he makes a violent proposal there, which all who were present reject; I do not mean that, in the convention, he made the proposal; but among some of the members, he made a proposal, which all who were present instantly rejected.

Now I will tell you what I firmly believe to have been the case. Watt had been a spy; he had carried communications to government; he pretended, perhaps, to know more than he did; he over-valued the communications he did carry, and therefore was discarded; he still fixed himself upon these men, who did not know that he had been a spy, and kept company with him; and I do verily, in my conscience, believe, that he made this proposal to them with a view to carry the information of it afterwards to government, and then to hang these men, if he could get them to agree with him. I believe that to be the case; I believe him to have been a determined miscreant, and I am not sorry that he was hanged, if that were the case, because he justly deserved it; but having, as a spy, carried information to government; having required a higher price for his services than government thought he deserved, he had been discarded; he afterwards goes back, and makes this proposal, which was rejected with abhorrence by them, and I do verily believe he made this proposal for the sole purpose of implicating them in the guilt of such a project, that he might carry the information to government, and thereby show he was worthy of his hire; that he might show he was worth the price he asked. Now take it either way; that he really meant to accomplish this project, or that, not meaning to accomplish it, he wished to draw other people into it, for the sake of sending them to the gallows, he has met the fate he richly deserved.

But observe another thing. Watt is to be connected with Mr. Hardy. How? Through the Scotch Convention; because Mr. Hardy corresponded with the Scotch Convention, and because Watt was a member of that convention. Good God! have they attempted to fix this guilt upon any of the delegates to the Scotch Convention, except those two individuals, Watt and Downie?—Government has prosecuted all the indictments, I suppose, that they mean to prosecute for high treason, in Scotland, and yet not one of these delegates with whom Watt was, at one time, immediately connected, has been indicted for



high treason.—Why? because the high treason of which Watt was guilty, consisted of a fact, in which they had no participation, and much less had the prisoner any participation in it. Recollect what is the account M'Ewan gives, when this project was proposed to him by Watt. He says, that they rejected it with abhorrence. Then, if those who were upon the spot rejected it with abhorrence; if no immediate communication upon the subject is proved between Watt and Hardy, will you, by a long chain of implication and inferences, fix that upon Mr Hardy, which the officers of the crown do not pretend that they can fix upon those who were immediately connected with Watt, the actor in it? It is impossible to suppose, that men of common justice, and of common humanity, can entertain such a thought.

Another observation arises upon this evidence of Mr. M'Ewan; he is a Scotchman, and he was a member of the Scotch Convention, and you have heard from him what he thinks of the Scotch Convention, and I think you have reason to believe from the manner in which he gave his evidence that you receive from him his real sentiments upon all the subjects upon which he is questioned, and a true relation of all the facts to which he was examined; was there any difficulty in getting from him this account of Watt? Did not he immediately, upon being asked, communicate the whole story? Did not he express his own abhorrence of it? I believe he came voluntarily to give this account; I am sure the contrary does not appear in the cause, and I am entitled, as counsel for the prisoner, to insist that no fact exists which is not proved. The witness came forward in the ordinary course, and therefore I am entitled to suppose, that coming forward in the ordinary course, he did it voluntarily, in order to state facts to you, upon which you will have to reason when you come to consider what verdict you will give. When I say that no compulsory means were used to bring this witness to the bar, it is not because it is material to me whether it be so or not, yet still I am entitled to make that assumption.

Now what is the account he gives of the whole of this business? and here I am answering that part of their case which endeavours to implicate us in the guilt of those persons at Edinburgh. He states that there was no idea of trenching on the authority of the King, or Lords; that there was no idea of assuming the functions of parliament; that nothing was to be done by force, and the very night on which they were dispersed, it appears, they had considered upon petitioning either the parliament, or the king; then, if that were the case, what becomes of the charge against the prisoner? If in all this vast field of evidence, which they have taken, they cannot prove any design, by means of this convention in Scotland, to depose the king by force, what becomes of the charge against Mr.

Hardy, who was not directly implicated even in what that convention really did? The charge against him is, that he conspired, with others, to call a convention, which convention was to act by force of arms against the government of the country, and to depose the king. Surely the proceedings at Edinburgh furnish no proof of this sort against him.

I observe, and I dare say the fact will be relied upon, by the solicitor-general in reply, that all the witnesses who have been questioned to these circumstances (their witnesses as well as ours) were asked by the attorney-general, whether they thought certain resolutions that were shown to them were peaceable and orderly? Some had seen them, some had not. Now I have nothing to do with their opinion upon the point, whether these resolutions were peaceable or orderly. The question, in this cause, is not whether these people had come to peaceable and orderly resolutions; but the question is whether they have committed an overt act the direct object of which was to depose the king, and the ultimate object of which was to bring about his death; that is the question for your determination. And it is very hard upon the prisoner if dust is to be thrown into the eyes of the jury, by endeavouring to fix their attention upon facts which do not amount to an act of high treason (for if one act does not, all taken together cannot) for the sake of preventing them from looking directly to that which is alone the object of their inquiry, namely, whether this prisoner did conspire, with others, to destroy the king, when they agreed to call a convention? And it matters not whether this report of the secret committee be full of obnoxious and offensive resolutions; it matters not whether they are guilty of all the other crimes in the catalogue of criminal law: the sole question is, whether they have been guilty of high treason? whether they meant to call this convention for the purpose of deposing the king? And when you ask every one of the witnesses for the crown, whether they had any such intention; when they tell you in plain direct words that they had no such intention; that their views were peaceable, and that they meant only to produce a parliamentary reform, by calling the convention; you are not to be led away by an accumulation of all these acts (offensive, perhaps, but not one of them amounting to an overt act of treason) to find the prisoner guilty of so high a crime, because you disapprove of his politics, or because you disapprove of some of his conduct. Thank God! that is not the way in which a prisoner is to be tried in this country!—You are to keep your eye to the fact with which he is charged, not to inquire whether he is guilty of ten thousand misdemeanors; whether he is obnoxious to this or that set of men; whether his politics are such as you or I should approve; but whether he has been guilty of the crime with which he stands charged, namely, whether



his project of a convention was directed immediately to the deposition of the king, and ultimately to his death, and if you do not find that, you cannot find the prisoner guilty.

Gentlemen, I have already observed upon the miserable case that is made on the subject of arms, muskets, and pikes, and I am perfectly persuaded that that part of this case would never have been laid before you, if those who conduct this prosecution had not entertained a firm and certain opinion that without it they could do nothing; such evidence weakens a strong case; it is of a nature to add nothing to the strength of a case that could stand by itself; but we know very well that in a certain stage of a cause, when it is found that there is not sufficient to fix that charge upon the prisoner, without fixing which there must be a verdict of acquittal, any thing is attempted. Hence, arose the attempt to fix Mr. Hardy with the acts of Watt; one's mind revolts at it, and I am sure it would never have been attempted, if it had not been thought necessary to the support of this cause.

Gentlemen, I told you before I had the best authority for saying that the delegates in Scotland, none at least of them but Watt and Downie, had been guilty of high treason. I have the best authority for saying that, because I have the authority of those who prosecuted them for a misdemeanor, and of the judges before whom they were convicted of a misdemeanor. If they were known to be guilty of high treason, and yet were prosecuted for misdemeanors, it was not humanity so to prosecute them; true humanity is to be shown to the innocent, and not to the guilty; the guilty should be punished up to the extent of their crimes, but if these men were known to be guilty of high treason, and yet were prosecuted only for misdemeanors, that prosecution becomes a snare to others; it holds out to them that acts of this sort are not high treason, it waits for their going on perhaps till they have accomplished the act, and then the net is thrown over them; they are told, this was a trap laid for you, we knew that those others had been guilty of high treason, but we thought if we punished them as traitors, you would not go on; you have gone on, and now you must take the consequence; it is nothing to you how we proceed against other men; we will proceed against you as the law is—we will proceed against you for high treason, although we proceeded against them only for misdemeanors. I say that is not true humanity; those persons who had been guilty of high treason should have been punished as traitors, and a trap should not have been laid for those who at that time were innocent of it; humanity should have been shown to those who had not been then guilty of crimes, and not to those who had. I do not say that this was the conduct either of the prosecutors of these delegates, or of the judges who tried them; but I am entitled from their conduct

to assert this, that they did not believe them to be guilty of high treason, and that they prosecuted them only for misdemeanors, because they knew them to be guilty only of misdemeanors.

Gentlemen, I have stated to you the ground upon which this prosecution is founded; it is compassing the king's death. I have stated to you that which I beg you always to hold in your minds, that the foundation of this prosecution is, that the prisoner called this convention for the purpose of deposing the king. I have stated to you that none of those acts which are contained in the volume of written evidence that has been laid before you, amount to proof of that fact. I should have stated before, it was an omission that I did not, but I will now state to you what I apprehend to be the overt act charged in the indictment, and relied upon in proof as fixing this crime upon the prisoner; it consists in the resolution for calling a convention; the crime imputed is, that he resolved to call it for the purpose of deposing the king.

Now I beg you to hear the language of that resolution, as it was ultimately agreed to—“That it appears to this committee very desirable that a general meeting, or Convention of the Friends of Liberty should be called, for the purpose of taking into consideration the proper methods of obtaining a full and fair representation of the people,” that is the overt act with which the prisoner is charged. Why then, gentlemen, the professed and avowed object of this convention by those who resolved that it should be called, was, not that it should take arms into its hands, not that it should entertain others who had arms in their hands, but merely that it should take into its consideration the proper methods of obtaining a full and fair representation of the people. This is the language which they hold throughout all their resolutions, and I insist that there is no direct evidence on the part of the crown which shows that this is a mere pretext. I shall come presently to that part of the case, and to the grounds there are for saying this was not a pretext; at present I am only considering how the evidence for the crown have made out their case; upon this part of the case you must believe, before you convict the prisoner, not only that there was force prepared, but that it was his intention that this convention should use that force.

Now a very remarkable observation that arises in the case is, that there is not a single tittle of evidence from the beginning to the end which unites the project of the convention with any thing of arms, that connects or brings them together at all; they had spies upon all their proceedings—all their meetings were watched over—every member of the society had, when in the society, and probably at many other times, a man at his elbow who would give an account of every thing that passed, and yet there is not a single word that has fallen from any of the witnesses; not a sin-



gle expression, I believe, to be found in all the written evidence, that connects the calling of the convention with the preparation of any force; unless you connect the two together, you cannot find the prisoner guilty upon this charge in the indictment; there is no proof which can be stated to you, none that can be left to your consideration without the parol evidence that these men intended that the convention should act by force; throughout the written evidence they expressly disavow it.

You must believe men's words, unless the direct contrary is proved; but when the crown has given in evidence this business of arms, they tell you, and I am entitled to assume it, that this is the force which those members of the convention meant to use; if there was any other they would show it, and the conclusion follows, that if they did not mean to use this force, they meant to use none. The crown knew all they had done; the question is, whether the convention meant to use force; if the crown cannot prove they meant to use this force, they do not prove they meant to use any; the case would have been more strong, perhaps, upon that part of it, if they had not called their witnesses, because then you would have been told that a great deal was to be left to fair presumption and inference:—that though they had not proved it, yet you were to presume it from the other facts proved; but they have taken upon themselves to show you what that force was which this convention was to use, and they put it upon the pikes, the muskets, and the knives. I hope we have pretty well disposed of them already.

But supposing there was any thing serious in this proof of the pikes, the muskets, and the knives, there is no evidence connecting it with the convention; and if it had been the project of these people, if it had ever entered into the minds of any of them that this force should be used by that convention which they intended to call, it is impossible that the crown should not have been able to have laid evidence of it before you. You see they have spies every where; you see when we call a witness, they know him better than we do; they have had a man in every society in London. They can ask when Mr. Stevens was called, whether it was Mr. Stevens of Rathbone-place, or Mr. Stevens of the Minories. They know them all, they have watched at their elbows, they have been vigilant, and they are to be commended for it; but still it fortifies my observation, that they know all that is in this case; that nothing is left to presumption, to inference; that all that exists has been brought forward by them, and that you have nothing to form your judgment upon, except that which they have laid before you; they have laid before you, therefore, all which exists of arms; they have laid nothing before you to show that these arms were connected in any way with the convention. Therefore, I have a right to assume that the

fact does not exist, that it ever was in the contemplation of these men that these arms should be so used; because if that had been in their contemplation, these men who talk enough of what they mean, would have talked of this, and it would have been known to the officers of the crown. How public has every thing been done which has been done? There is hardly a single act of theirs imputed to them as a crime; not one out of that number and variety of their acts which are all woven up in this intricate web that is now spread before you; not one which the prisoner, and those with whom he acted, have not publicly avowed in the face of day. It may be said that if the acts are illegal, this adds to their illegality; that they are not only illegal, but they are impudent, but that does not make them high treason; and it shows that what these men professed were really their objects; it shows that they acted *bonâ fide*; it shows that they thought they were about that which they had a right to do, and that is the way in which I use the argument; it shows that though they might be wrong, that though they might be acting illegally, they thought they were acting legally, or they never would have submitted to the investigation of courts of justice, these acts which are now complained of as constituting the crime of high treason.

Gentlemen, hitherto I have only remarked upon the evidence that has been produced on the part of the crown; you observe it appears from the language of our resolutions which they have produced against us, that our object was parliamentary reform; that language they say may have been a mere pretext, and may have covered a different design. You have it upon oath that this and nothing else was the object of those people with whom they say we are connected, for every witness whom they have called, and who knew the objects of those people, has sworn that their objects were peaceable. This is the evidence on the part of the crown.

Now, gentlemen, we have confirmed this evidence of the crown by evidence of our own: we have added to the number of witnesses whom the crown have called, others who gave an account of what were the motives of these societies, what was their end, and what the means by which they meant to effect that end; every one of those witnesses, called one after another, has agreed in saying that their end was a parliamentary reform, and though to accomplish that end they meant to call this convention, yet it never entered into their minds to conceive that this convention was to act by force; on the contrary, that it was to act by all peaceable means, to collect the voice of the country, and when collected by means of that convention, it was to be carried by the same organ to the House of Commons, who it was supposed would listen to it.

Gentlemen, it would be idle in me, it would be cruel towards you, to go more parti-



cularly into the evidence than is necessary. I think I have stated what is the general effect of the evidence of every witness we have called; but I think there are two who were called last—I mean Mr. Sheridan and Mr. Francis, who spoke more particularly to this fact, and whose evidence will deserve more of your consideration, because they show most decidedly that the objects the prisoner has always professed, were his real objects.

Gentlemen, you recollect the time when there was an alarm in the kingdom, when the militia was suddenly embodied, and parliament was assembled. Parliament was assembled, indeed, for the purpose of embodying the militia, because without it the militia could not be embodied in a legal way; the ground alleged for calling parliament together was, that there were disturbances and insurrections in the kingdom; there were some gentlemen who thought that there did not at that time exist those disturbances and insurrections which were stated, and accordingly an inquiry was instituted into the real existence of them; upon that occasion Mr. Hardy attended Mr. Sheridan, and Mr. Sheridan states to you in terms that Mr. Hardy wished a committee to be appointed; he wished an inquiry to be made, and he was ready, and was to have laid before Mr. Sheridan, nay he was to have been called before the House of Commons, and to give an account thereof of all he knew relative to that business; he stated that their societies did meet at public-houses; that publicans, probably thinking their licences would be taken away, would not permit them to meet in their houses any more; that they had accordingly met at private houses; that he (Mr. Hardy) had communicated a list of these houses, and had given Mr. Sheridan all the information in his power; that he wished an inquiry might be instituted, in order to show to the parliament and the public what their real view was: that he was ready to lay before them all the papers, all the documents relative to the progress of this society. This seems to me to furnish extremely strong proof that Mr. Hardy acted *bonâ fide*; that he had then no criminal intent in his mind, nor had any of those acting with him, because if they had, he would have withdrawn from such an inquiry; instead of that he comes forward publicly, desires that an inquiry into their conduct may be instituted, and he gave every assistance in his power for that purpose.

It appears from Mr. Francis's evidence, that what Mr. Hardy says has always been his object, always was so; he and some other members of this society attended Mr. Francis, wishing him to present a petition to parliament, for annual parliaments and universal suffrage. Mr. Francis says, Mr. Hardy struck him, particularly from his deportment, as a reasonable, quiet man. Mr. Sheridan likewise gave that testimony to his character: he says he remarked him for his

peaceable and decent deportment; that coming to him to desire him to present this petition, he conversed with them upon the subject; and they said then, what they now say, notwithstanding this present prosecution against them, that they learned their principles from the duke of Richmond's letter; that they were convinced by his arguments; and I am afraid that they still hold the same opinions. I hope it is no reflexion upon any man, not to entertain these opinions; for I do not myself; yet still it is surely an excuse to such a man as Mr. Hardy, that he holds opinions such as the duke of Richmond entertains, and not only entertains, but has given to the public as his opinions, and acted upon himself. They adhered to their object, Mr. Francis says, of universal suffrage; he stated to them, that that was not the usual form of a petition, and they had better leave it to the House, what sort of reform should be adopted. They still, Mr. Francis says, adhered to their object; but they were ready, if, according to the forms of the House, it was more respectful, to leave the whole to the wisdom of the House of Commons, what means they should adopt; they were ready to present their petition in the general form; but still they adhered to their principle, that what they wished for was universal suffrage. Surely this must show, beyond doubt, that these men really thought it would be a good thing to obtain universal suffrage, and that this was the object, and the only object which they zealously, and *bonâ fide* pursued.

But, Gentlemen, those who conduct this prosecution wish to persuade you that there is more in it than lies upon the surface; that these men have not acted honestly; that they have not acted *bonâ fide*; that this which they have held out as their object, and this which they have held out as their means of obtaining that object, are a mere pretext, and that there is no colour for insisting that they are their real opinions.—Let us examine that a little; let us see what grounds they had for really entertaining these opinions, and whether their conduct be not such as leaves you reason to conclude they are their real opinions.—The proposition of these men is this:—That the House of Commons is corrupt; that that corruption proceeds from the manner in which the people are represented in parliament, and from the long duration of parliaments; that they think this evil might be corrected by annual parliaments, and by universal suffrage; they think the House of Commons will not grant them this upon their petition, because they have often refused them; they think that the majority of the people (I do not say that they think right)—but they think the majority of the people are or may be with them; they say, they wish to collect the sense of the majority of the people; they therefore wish that a convention of delegates



from different parts of the country should be called, by whom they should first collect what was the sense of the people by whom they were delegated; and if it appears to be what they contend it is, that it shall then be communicated to parliament.—This it is said is mere pretext.

Now, let us examine it in its parts.—The first proposition is, that the House of Commons is corrupt—I do not mean to say that the House of Commons is corrupt; but I am examining whether Mr. Hardy, who has pinned his faith upon the duke of Richmond, has not ground for saying so, and that that corruption proceeds from the want of a proper representation of the people in the House of Commons. What does the duke of Richmond say upon that subject?—He says, in his letter to colonel Sharman, “The lesser reform has been attempted with every possible advantage in its favour, not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power; but with all temperaments and helps it has failed; not one proselyte has been gained from corruption, nor has the least ray of hope been held out, from any quarter, that the House of Commons was inclined to adopt any other mode of reform.”—Why, then it is not a suggestion first of Mr. Hardy and his friends, that the House of Commons was corrupt, and that this was the means of reforming it; his great prototype the duke of Richmond, the man whose precepts he has followed, and whose disciple he is, told him, in express terms, that the House of Commons is corrupt, and that that corruption proceeds from the people not being properly represented in the House of Commons. The remedy, then, that is to be applied to this, is, in the opinion of Mr. Hardy and his friends, annual parliaments and universal suffrage. Why, what does the duke of Richmond say upon that subject?—He says,

“From every day’s experience to the present hour, I am more and more convinced, that the restoring the right of voting universally to every man not incapacitated by nature for want of reason, or by law by the commission of crimes, together with annual elections, is the only reform that can be effectual and permanent: I am further convinced that it is the only reform that is practicable.

“All other plans that are of a palliative nature, have been found insufficient to interest and animate the body of the people, from whose earnestness alone any reform can be expected.—A long exclusion from any share in the legislature of their country, has rendered the great mass of the people indifferent whether the monopoly that subsists, continues in the hands of a more or less extended company, or whether it is divided by them into shares of somewhat more or less just proportions; the public feels itself unconcerned in these contests, except as to the oppressions it

endures, and the exactions it suffers, which it knows must continue so long as the people remain deprived of all control over their representatives.”

“What I call for,” he says, “is, not convenience, but right; if it is not a maxim of our constitution, that a British subject is to be governed only by laws to which he has consented by himself, or his representative, we should instantly abandon the error; but if it is the essential of freedom, founded on the eternal principles of justice and wisdom, and our unalienable birthright, we should not hesitate in asserting it. Let us, then, but determine to act upon this broad principle of giving to every man his own, and we shall immediately get rid of all the perplexities to which the narrow notions of partiality and exclusion must ever be subject.”

Now it is objected to Mr. Hardy, that this idea of the corruption of the House of Commons; corruption proceeding from an improper representation there—that this idea of reforming parliament by annual election, is all pretext. What foundation is there for that, when you have heard from twenty witnesses in the cause, that Mr. Hardy has over and over again said, he forms himself upon the duke of Richmond’s plan, which he wishes to be carried into execution; that that is his only object; and when this, which he professes in all his letters, which appears to be in fact the object he is pursuing, is, in terms, the reform which the duke of Richmond by a publication recommends to the people to adopt?

Then, gentlemen, we have got this length—that the corruption of parliament is not a thought of Mr. Hardy’s—that the cause of that corruption is not a thought of Mr. Hardy’s—that the means by which that corruption might be remedied is not a thought of Mr. Hardy’s; they are all the thoughts of the duke of Richmond, supported by these reasons which you heard read while his grace was in court.—I have stated to you what the immediate means were—annual parliaments, and universal suffrage.—The next thing to be considered is, how that reform was to be effected.—Mr. Hardy thinks—but that is said to be pretext—that it may be effected, and he meant to effect it, by a convention of the people, and by collecting the sense of the people from that convention.—What does the duke of Richmond say upon that subject?—He says, “the weight of corruption has crushed this more gentle”—speaking of a lesser reform,—“as it would have defeated any more efficacious plan in the same circumstances; from that quarter, therefore, I have nothing to hope—it is from the people at large that I expect any good.”—Why, then, when such a man as the duke of Richmond tells the public that parliament has been petitioned so often for this redress that they will not grant it; when he tells them that he still expects this to be granted, and tells them



that it is from the people at large only that he expects it will be obtained, how is this man at the bar to understand the duke of Richmond?—What was the mildest sense he could put upon his words?—From the people at large the duke of Richmond expects this reform—he does not expect it from the parliament—he knows the parliament will not grant it? but he expects it from the people.—Then the people must have some lawful means of promoting it—I think the most rational, I think the most peaceable; I think the most constitutional construction that can be put upon that expression is, that it is to be expected from the sense of the people at large, first collected, and then conveyed to the House of Commons—not acting by force; unquestionably, the duke of Richmond could never mean that; but he expected this reform from the people at large, because he hoped that they would declare publicly what their wishes were, and that those wishes being communicated to the House of Commons, would produce the reform which he wished to see effected.

Gentlemen, I think this is fair reasoning; I think this must be the construction which you will put upon the duke of Richmond's letter:—It cannot be said that a man possessing so enlightened a mind, and holding such a rank in the state, as the noble duke, meant by this letter to excite Sharman, to incite the people to take up arms against their government, and to enforce that which would otherwise be denied to them. He must be understood, therefore, to have expected that the people at large, by their opinions being collected, and those opinions being communicated to the legislature, would produce that reform for which he was so zealous an advocate.

What, then, has been the conduct of the prisoner, as testified by every part of the evidence in this cause?—That he uniformly acted upon the duke of Richmond's plan; that he pursued that only which the duke of Richmond wished to be carried into effect: that he promoted it by the means by which the duke of Richmond wished to see it accomplished.—Who, then, can say that he meant any thing farther than the duke of Richmond meant? Is it not, I will ask you, possible at least to put upon these acts of the prisoner the construction I put upon the language of the duke of Richmond? Is it not possible, upon all these acts, that his object should have been for the convention to collect the sense of the people, and state it to parliament? I ask you first, is it not possible?—If it be possible, and if you find that that was the duke of Richmond's plan, and if you find that this man has universally declared that his object was only to do that which the duke pointed out in his plan, surely you will not then, for the sake of fixing guilt upon him, presume that he meant more than the duke of Richmond meant—but rather inclining on

the side of innocence—inclining to a man upon whom guilt is not directly proved, you will say that he meant what the duke of Richmond did mean—that he meant this convention should act as the duke of Richmond meant the people at large should act, by collecting the general opinion, and conveying it, not by force of arms, but peaceably, to the House of Commons.

Gentlemen, it is a principle, I think, in the English law, that, when the act of a man is indifferent or doubtful, it should rather be attributed to an innocent than a guilty motive.—And I hope that we have not lost sight of another principle by which English juries have always been governed; namely, that if the act of a man be in itself indifferent, and there be evidence, some having a tendency to show it criminal, and some innocent, if the former does not most clearly outweigh the latter, humanity will turn the scale in favour of innocence.

With respect to this act of calling a convention, it being in its nature an innocent act, you heard read a protest of several learned peers upon a motion that was made in the House of Lords during the pressure of the American war, when the burthens which that war produced were felt heavily by the subject. Lord Shelburne made a motion in the House of Lords, the ultimate object of which was to decrease those burthens; the immediate object was, that a committee should be called, consisting neither of placemen nor of pensioners, to inquire what unnecessary expenses arose in the public expenditure—what unnecessary places existed—what unnecessary pensions had been granted—and to inquire how that expenditure might be lessened.

After a long debate, the motion was negatived; but those who were in the minority, if they were weighed not by their number but by their merits, would be called a majority:—There was at their head the venerable and learned earl Camden, as great a constitutional lawyer as this country has ever seen, and as firm a supporter of its constitution.—There were many more, some of whom are now acting in administration.—The duke of Portland, the duke of Grafton, lord Fitzwilliam, the duke of Rutland, the duke of Devonshire, lord Rockingham, lord Scarborough, and, true to his old principles, the duke of Richmond; they were in the minority; the motion was negatived; but they protested against the negative that was put upon that motion; they assigned their reasons to the public—they wished to hand down to posterity their reasons for thinking that that committee ought to have been instituted, and that inquiry set on foot; and the fourth reason which they assign is this:—

“We are further impelled to press this motion, because the object of it has been seconded and called for by a considerable majority of the people, who are associating for this purpose, and seem determined to pursue



"by every legal and constitutional method that can be devised for its success."—There you have lord Camden's authority, that the people may legally and constitutionally associate for the purpose of obtaining an end which appears to them publicly beneficial—"And however some may affect to be alarmed as if such associations tended to disturb the peace, or encroach upon the delegated power of the other House, we are persuaded it has no other view but to collect the sense of the people, and to inform the whole body of their representatives what are the sentiments of the whole body of their constituents."

Then this learned and noble lord asserts the collecting the sense of the people at large to be the object of the associations of the people; that the object of those associations is, to communicate to the whole body of the representatives what are the opinions of the whole body of their constituents.—That was the object of the man who stands at your bar; that was the object of all those who acted with him; they meant to call, not an association of the whole people, but something less tumultuous—a convention of delegates sent by the people at large, by whose means they might collect what were the opinions of the whole body of their constituents, and might, by the same organ, communicate them to the whole body of their representatives.—"And if it be asked what farther is to be done if these petitions are rejected, the best answer is, that the case cannot be supposed; for although, upon a few separate petitions, it may be fairly said that the other House ought not to be decided by a part only of their constituents, yet it cannot be presumed they will act in defiance of the united wishes of the whole people, or indeed of any great and notorious majority."—Then here I get another step;—separate petitions had been rejected; separate petitions might be rejected; the House of Commons might not feel it necessary to attend to separate petitions; but if a petition could be got from these general associations of the people, such a petition would be legal and constitutional, and, according to the opinion of lord Camden, ought to be attended to—ought to have so much weight in his estimation, that it is not to be supposed that so wise a body as the House of Commons would not yield to it.

Gentlemen, is that illegal to which lord Camden, so great a lawyer, gives such an effect, when he states, that petitions offered by the general associations of the people, ought to be attended to by the House of Commons, and that it is inconsistent with their wisdom to reject them?—Does not he, by this protest, hold out to the public, that, when separate petitions are rejected, the object of which is thought conducive to the public good, it is the right of the people to associate for that public good, and, being associated, to present such petitions as lord Camden tells them are not likely to be rejected?

"It is admitted that the House of Commons have a power to vote as they think fit, but it is not possible to conceive that so wise an assembly will ever be rash enough to reject such petitions, and by that means cause this dangerous question to be broached and agitated whether they have not broke their trust? The voice of the people will certainly be complied with; ministers may, as they seem to have done in a recent instance, deprive any man of what he holds, at their pleasure, for presuming to exercise his undoubted right of thinking for himself on these and other public subjects, but it will not be wise in them to treat these associations with contempt, or call them by the invidious name of faction, a name by which the minority of both Houses of Parliament have been so frequently and so falsely calumniated, because the name so applied, will recoil back upon themselves, when acting against the general sense of the nation, nor will they be able to represent these numbers, so respectable in rank and property, as they did but too successfully the discontented Americans, as a mob of indigent and seditious incendiaries, because the people to whom this is addressed, are the very people that are abused, and every man bears within himself the testimony of its falsehood."

Gentlemen, my reason for bringing forward this protest to you is, that you may see that it has been the opinion of great and enlightened men in this country, that associations of the people for the purpose of obtaining that which they conceive to be a redress of a national grievance, are not only lawful but commendable; for if they were only strictly lawful, and were not commendable, we should not see the names of such men as we do see at the bottom of this protest, publicly declaring, that, because this appeared to be the voice of the people collected in their associations, therefore it was inconsistent with the wisdom of the House of Commons to reject the prayer of these petitions.

Now, gentlemen, if this be so—if this man at the bar has always acted upon the duke of Richmond's plan—if the duke of Richmond has constantly pointed out to him in all his publications (it is not necessary for me to go into more than that which I have stated) that there exists this corruption in the state, which may be remedied by these means—that the people have a right to act for themselves in the way I have stated; if it be the opinion of men so eminent as those, whose names you have heard are at the bottom of this protest, that associations of this sort ought to be attended to, how is the prisoner implicated in any guilt charged upon him in this indictment? Recollect the principle which I have stated, and which cannot, I am sure, be denied, that if you can attribute his actions to an innocent motive, you ought not to ascribe them to a criminal one—I defy any man to say, that there is direct proof, that the prisoner



prepared any force for supporting this convention; and then if you find he has constantly declared that he followed plans of a different nature, if you find that general associations for such a purpose are lawful, how can you say, that he who projected only the calling a convention, for the purpose of parliamentary reform—who states, that it was for the purpose of taking into consideration the proper modes for obtaining a full and fair representation of the people.—How can you presume against the constant tenor of his life—against the constant language he held upon the subject—against the conduct of that man, whose precepts he has constantly followed—against the doctrine laid down in this protest, that associations for this purpose are legal and constitutional? How can you presume against all this, that his conduct was not legal and constitutional, though he always professed to follow the examples of men who acted legally and constitutionally; though he professes in his resolutions to follow them only by legal and constitutional means? How can you presume that he had that illegal intent which the indictment charges him with, namely, that he called this convention for the purpose, by force of arms, of deposing the king, and putting him to death; that would not be a charitable conclusion—it would not be a conclusion to which Englishmen have ever upon such evidence arrived, and I am sure therefore that it will not be yours.

Let me suppose for a moment, that that noble person who has given his evidence in this cause, could descend from his high station, and become the advocate of this prisoner. What would he have had to say in his defence? would he not say, "Look to the origin of this; it was my plan, he is my disciple, he has followed my doctrine, he has pursued my principles by the means which I pointed out to him; I told the public that annual parliaments and universal suffrage, was the only reform to be introduced into the House of Commons, which would remove the grievances under which we labour—I told the public, that they had a right to assemble, and to make their voice heard in the House of Commons; I not only told the public this at the time when I brought forward my motion, but I left with the public the reasons which induced me to form this opinion, and these reasons have since been operating upon the mind of this man at the bar—his sins, if he has sinned, are upon my head; if he has been misled, he has been misled by me, he has pursued the same object, by the same means; but (it is said) he has used harsh language, he has entered into improvident resolutions. Why he may; he is an ignorant man; his resolutions may have been improvident; may have been rash; may have been illegal; his language may have been so—but when I have led him to this; when I gave him the principle; when

his end is the same as mine; when the means he uses are the same: namely, by the intervention of the people; a little indiscretion; a little violence of language, and even a little illegality, is to be excused in a man in his situation.

"I have high rank in the state; I have the advantages of great abilities; great industry; education; experience; knowledge; and an enlightened mind to direct me; I used them all, endeavouring to lead my judgment to a true conclusion, upon what was really salutary to the public upon this subject; they led me to conclude, that annual parliaments and universal suffrage, were the only means by which the public could be saved; and led me also to conclude, that the people had a right to annual parliaments and universal suffrage; and that if the House of Commons did not grant them upon private petitions, that to the people was the proper appeal, and the people would then make their own voice heard by the House of Commons; this I told the poor man; he learned it from me; he has not my advantages; with all these advantages I entertained the opinion which this man, who has none of them, following me entertains; he has on his side nothing but ignorance; it is not wonderful that he should have been convinced by the reasons which I published, and which induced me to entertain this opinion of a convention of the people, nothing on the other side having been published, which could come into his hand: therefore surely it is reasonable to expect that you will presume he has acted *bonâ fide*.

"But he has gone greater lengths than I have; well, that may be excused in him; he is an ignorant man, he has not the advantages I have; he has not had the advice I might have to follow; he has met, too, with greater provocations than I ever met with; I had a large train of followers in the House of Lords; the propositions which I brought forward, were never rejected with disdain and contumely; I had never the provocation that this man has had from the treatment that he has received; I will not inquire whether the provocation be well or ill founded, but it is still provocation which a common mind was likely to be moved by."

Gentlemen, these are the topics which the duke of Richmond himself, if he could be placed in my situation, and argue the case of the prisoner, would urge to you; but if he felt for a moment that this man's life was in danger, his blood would curdle in his veins; he would shudder at the mischiefs produced by his publication, and wish in vain to recall it; he would implore you upon his knees, not to find any guilt in Mr. Hardy, that you would not be ready to find in him; he would tell you that the prisoner has done nothing which is not imputable to him, nothing which he would not have done himself; that his principles are the same, his objects the same; that the means of attaining these objects



avowed by him, and proved in this cause, are the same; not a single expression has been proved upon Mr. Hardy, tending a different way, and surely, gentlemen, it is a great excuse for a man in the situation of life in which the prisoner stands, to urge that he followed the same object which the duke of Richmond points out by the same means: I say by the same means, because it is not proved by that plain direct and manifest proof which the statute calls for, and which lord Coke says is required, that he has used any other; then permit me to add that the circumstance of his having always avowed an adherence to the plan of the duke of Richmond, ought to lead you to a conclusion that in this case he meant not to go beyond it.

Gentlemen, what I have troubled you with hitherto, is chiefly upon the general evidence of the plan that has been laid before you.

Gentlemen, you collected from an argument which we had in the early part of this cause, that none of the evidence admitted in it, which is not brought personally home to Mr. Hardy, ought at all to affect him, otherwise than as it may prove (which was the object of it) a general conspiracy in the country to call together a convention, which was to be supported by force against the government; with that view nine-tenths of the evidence that has been read was admitted, and with that view only; and it was stated by the Court, that Mr. Hardy was not to be affected by any of that evidence, any farther than he might be proved afterwards to be engaged in that plot, and to the extent only that he was proved to be engaged in it; namely, in the plot of calling together a convention for the purpose of attaining their end against the government, by force of arms. There is proof enough to show that Mr. Hardy did mean that a convention should be called; he certainly did, and I do not dispute it, but the question for you will be, whether Mr. Hardy, the individual standing at your bar, did in his mind intend that that convention should act by force against the government.

Now, gentlemen, I wish it were within the compass of my ability to have separated the evidence, and to have laid distinctly before you, what evidence does apply to Mr. Hardy, upon this point. I admit that his case requires it. I admit that his counsel ought to do it; and I have but one excuse for not doing it, which is, that to the reach of my ability, the thing was impossible; though I have had the accidental leisure of a Sunday to look into the papers; yet from not having a copy of a third part of the letters that have been produced in evidence, except those which are in the report (and I do not mean to blame any one that I have them not) though I endeavoured to do it. I wasted a considerable portion of my time, and I found it, at last, absolutely impracticable. I must, therefore, leave it to you. I trust to your recollection, to the notes which you have taken, and to the at-

tention you will pay to his lordship, when he comes to sum up, for distinguishing how much of this affects Mr. Hardy. In my apprehension, none of it goes to show, that in his mind, there existed a design of effecting a reform in the parliamentary representation, by force.

You observe, gentlemen, that, in the former part of my argument, I contended, that there existed no such design; if there did, which is another part of my argument, there is no colour for fixing any thing, as it seems to me, upon Mr. Hardy, the prisoner. Gentlemen, it is in evidence to you, that Mr. Hardy has never been without a spy at his elbow for the last two years, from the year 1792 till the time that he was apprehended; he has never been at any meeting, he has never been with any assembly of friends at which there was not present some person who has carried to the ears of government every thing that was said, by every person, at these meetings. Is it not singular then, that with the disposition which these men had to produce a reform (as I admit they had) that not one single expression, upon any occasion, is proved to have dropped from the mouth of Hardy, showing disrespect either to the King, or to the Lords? But I would not rely much upon that:—Is it not also singular, that not even an hasty expression, not an accidental word, has ever fallen from him, to show, that it ever was in his contemplation to use force for any purpose? And is it possible, that if he had conceived in his mind a design of carrying the project of that convention by force, watched as he has been, with spies constantly about him, some unguarded word should not at some time or other, have fallen from him, indicating, that he had entertained such an intention? You will observe, that though it is a part of the evidence of the crown to show a general plot, and, for that purpose, they have gone into general evidence, yet you have another question to try; you are to say, not only whether there was any such plot; but, if there was, whether Hardy was an actor in it, and embraced, in his mind, all its criminal views? For you are trying his intentions in calling this convention, whether it was the object of his mind, that, when called, it should act by force? No matter who meant it, if he did not; if that was not the intention of Mr. Hardy, you cannot find him guilty; and if it was his intention, I do think it utterly impossible, that going into the history of his life for two years, going into every act of it, attending him at every meeting that he ever attended, with spies whose ears were open upon all occasions, it is utterly impossible, I think, that some expression, some unguarded word, should not have fallen from him, showing that this was his intention. No such word is proved to have fallen from him; no expression from which it can be presumed, that he entertained such an idea. Is this according to the common course of human action?



Does the history of human life furnish you with a single instance of a man, having a certain plan in his mind, for two years together, meeting persons, with whom he is supposed to have been associated for the purpose of carrying that plan into execution, conversing with them upon the subject which would naturally lead to it, with the utmost freedom,—Supposing himself not watched; supposing himself to be talking with men, in whom he might repose the most certain confidence; do you find any instance, in the history of human nature, that a man the most artful and wily, through the course of two whole years, has never in confidence dropt an expression, showing he entertained that design which was lurking in his heart? Does the history of human nature furnish you with such an instance? And, if it does not, surely your humanity, your good nature will lead you to say, that it has not existed, for the first time, in this unfortunate man at the bar. Gentlemen, you are trying an act of his mind; you are trying whether it was *his* intention to compass this end by force; if it were not, whether such was the intention of any other person is immaterial. Then, if he has never suffered to escape from him an expression, from which that can be collected; if all that has fallen from his lips, for the last two years, has been communicated to those who accuse him, being, as he supposed himself always to be, in company with friends and confidants, when he was in company with spies, surely it is too hard to say, that he entertained in his mind, during all this time, a project, concerning which he never uttered a syllable, even to those with whom it is pretended that he conspired; that is too much for human credulity to give faith to.

If Mr. Hardy were a man of profligate manners and dissipated life; if he were a man likely, from the tenor of his conduct, to rush into a plan of this sort; if I could presume, from his general habits, that he was disposed to entertain and to pursue violent objects, by violent means, there might be something in this case. But you have heard the character that has been given of him; I think I never heard so universal and complete a character given by so many persons, of an individual in his situation, in my life. All sorts of persons have been called to you; his neighbours; his friends; those with whom he lived in intimacy; those of the same business with himself; some his countrymen; some not; all of them, concur in saying, that he is a man of the most amiable disposition, and respectable character; that he is a man of the most peaceable mind; that he is the last man in the world whom they should ever think capable of entertaining such a project as is now imputed to him.

The minister whom he attends has been called; he not only says, that his conduct in life has been exemplary, his manners amiable and peaceable, but he tells you, that conver-

sing with him upon political subject, he endeavoured to draw from him what his object was, and the means by which he meant to attain that object; that he always told him, it was parliamentary reform, upon the duke of Richmond's plan, and that the means by which he meant to obtain that object were peaceable. You observe, that these witnesses whom we called to his character, were not all people of his way of thinking, but that some had differed with him in politics. I believe that is in evidence. I know, however, the fact to be so. They all concurred in saying, that, during all the time they have known him, some for twenty years, his masters whom he served, all concurred in saying, a better character never belonged to man.

Gentlemen, this is a case in which, of all others, a peaceable character ought to weigh; because this is a case in which you are trying the act of the prisoner's mind; in which you are trying, whether he had conspired with others to pull down this government by force? Whether he was ready to take arms in his own hand, and attack the established powers of the country? That is the question you are to try; and, if you find any thing short of that; if you do not find that it was the design of Mr. Hardy to attack the government by force, through the means of a convention, it is impossible you should find him guilty.

Then, gentlemen, surely this character ought to weigh;—surely a man of such peaceable manners as belong to him, ought not lightly to be presumed capable of such an act; and when you add, too, that his conduct has been most diligently scrutinized, for two years, in a manner which no man could be aware of; when you find, that they are acquainted with every thought of his mind, that has found expression by his tongue, and that no word has ever fallen from him indicating a criminal intention, it is not too much to expect you to say, that, whatever other men may have intended upon this subject, he had not those views which are imputed to him, and therefore ought to have your verdict in his favour.

Gentlemen, let me remind you again of what the point is which you have to try;—it is, whether Mr. Hardy, at the time he concurred in the resolution for calling this convention, did himself personally mean, that the convention, being called, should act by force of arms against the government? That is the point which you have to try.—Mr. Hardy's life has been sifted:—It is not proved, that, through the whole course of it, conversing with men upon the subject of this intended convention, and of the parliamentary reform meant to be effected by it, he ever dropped a single expression, from which it can be collected, that he meant to use force; if he did not mean to use force, he must be acquitted of the charge now brought against him.—That he did not, I think this evidence goes fully to prove; and, therefore, I trust in God that you will give him your verdict of acquittal.



Lord Chief Justice *Eyre*.—Mr. Hardy, the counsel whom you have had assigned to you at your own request, have hitherto conducted your defence, examined your witnesses, and each of them has addressed himself to the jury on your behalf; you are also at full liberty to speak for yourself, if you wish to do so; and if you do, this is the proper time for you to be heard.

Mr. Hardy.—My lord, I am perfectly satisfied with the defence my counsel have made for me; and I apprehend there is no need of my saying any more.

Lord Chief Justice *Eyre*.—And you do not wish to add any thing?

Mr. Hardy.—No, my lord.

## REPLY.

Mr. Solicitor General.\* May it please your Lordships;—Gentlemen of the jury—The Defence of the Prisoner being now closed, it is my duty to address you in reply to what has fallen from the learned counsel, and for the purpose of (in some degree) summing up the evidence that has been given. You have no doubt been impressed with the very able and very powerful speech which you have last heard delivered; and I am happy in the opportunity of congratulating myself, and the profession, upon the exertions of abilities which I think have been equal to any which I have ever witnessed. The prisoner, I am sure, has been most ably defended; and if the defence is unequal to the purpose, it is because his case is indefensible, and not because full justice has not been done to him.

I must confess, however, that with respect to one thing which fell from the leading counsel for the prisoner, and which was repeated in the course of what he said to you gentlemen, I felt great surprise. I refer to what he said when he talked to you of the *policy* of a verdict—I have ever been taught to think that a jury of Englishmen, sworn to decide upon the life of their fellow Englishman, are to decide only according to the truth of the case which is made out in evidence before them, without turning aside to the right, or to the left, keeping perpetually the direct course, and attending only to the evidence before them, the law as it affects that evidence, and what is the conclusion which they ought to come to, without entering into a consideration, either on the one side or the other, of any political circumstances whatever; and much should we have to lament, if political circumstances, or any circumstances beyond the particular case before the jury, should in any degree weigh with them. The trial by jury is the great safety of the state itself, and of every individual member. If we suffer it to be perverted one way or the other, we remove from the constitution of the government the great control which the people of this country have reserved in their own hands; that

control which prevented the tyranny of a Cromwell from reaching to such extent as it might have done, which first shook James the second upon his throne, and which at all times has preserved, and which at all times will, I trust, be found sufficient to preserve the rights and privileges of the subject, as well as the constitution of the state.

In common and ordinary criminal cases, beyond the particular case, and beyond the mischief that may arise from crimes going unpunished, in whatever way the verdict is given, no great inconvenience can result; but in cases which so greatly affect the state as the charge of high treason does, the safety of the state itself may be fatally involved;—but it is your duty to discard even that consideration. You are simply to give your verdict according to that which, in your consciences, you shall believe to be the truth of the case, as made out to you in evidence, and wholly to discard every other consideration.

Gentlemen, in following my learned friends, who have appeared as counsel for the prisoner, I have considerable difficulty—a difficulty which, perhaps, in some degree the case imposes upon me, but I think thus far appears clear, that they have not attempted to invalidate the *truth* of any one important fact, but as far as I am able to judge, the *truth* of every important fact stands, in effect, admitted upon the defence which the prisoner's counsel have made. They have endeavoured to qualify; they have endeavoured to throw some obloquy upon particular witnesses; but I think you will observe, that, upon the whole, every attempt of that sort (in some respects, perhaps, justly founded), but every attempt of that sort has failed of shaking the main great points of the case. On the contrary, my learned friends, with a great degree of judgment, have omitted even to touch upon some of the strong parts of the case. I would also observe that the facts which have been stated by the witnesses who have given *parol* testimony, are facts in general to which great numbers were also privy, which might, therefore, be contradicted by great numbers, if they had not been truly stated by the witnesses, and, therefore, you have the strongest ground for presuming that it was impossible by the production of any witnesses against them to touch these facts. With respect to one of them, which I observe was particularly noticed by Mr. Gibbs, I mean what passed on the 2nd of May, where he chose to suppose there might be a considerable degree of difficulty in finding out what questions to ask the witness, or finding out persons who could give evidence to contradict him, I believe there were at the moment several gentlemen in court who were present upon that occasion, one of them an officer of the court, whom I have seen here constantly during the trial, who sat next Mr. Horne Tooke at that meeting, and who could have contradicted Mr. Groves, if he had said any thing untrue.

\* Sir John Mitford.



With respect to some part of what has been urged by my learned friends, I really have thought it an attack upon Mr. Burke, the duke of Richmond, his majesty's ministry, the constitution itself, rather than a defence of the prisoner at the bar. All these considerations, it appears to me, ought to be thrown entirely out of the case. You are merely to decide upon the evidence before you, and upon that evidence as it applies to the prisoner.

Conceiving, therefore, that my friends have not been able materially to shake any of the important facts of the case, I shall very shortly take a view of the law of the case, and consider it with reference to what appears to me to be the striking and leading facts. But it is necessary first to observe, that as the *meaning and intention* of the acts imputed to the prisoner are more questioned than the acts themselves, it may be important a little to attend to the evidence as it may appear to impute that meaning and intent to him, in common with a great number of other persons. It did not enter into the mind of the attorney-general when he opened this case to you, to impute to the great mass of people concerned in these transactions any such meaning or intent as he imputes to the prisoner at the bar. He conceived, on the contrary, that the proceedings were, generally speaking, a system of fraud and deception; always professing one thing, and really meaning another; confining the knowledge of their true meaning and intent to a few persons, who were the directors and the leaders of the whole, who had the whole business in effect under their management. If this were matter of doubt with us before the cause was opened, we can have no doubt of it now. It is impossible to doubt that there was great secrecy in parts of the transaction, that a few transacted the whole, and that the rest blindly submitted to what course they directed.

Gentlemen, the whole cross-examination of the Sheffield witnesses, and the whole of the original examination of the witnesses for the prisoner, and their cross-examination, seems to me to show, that a vast majority of the persons who were engaged in the transactions which have been brought before you for discussion, have been persons who *implicitly gave up their judgment to their leaders*. You will recollect the manner in which Broomhead described it. He said, "they listened to their great orators, as to their guides and directors; they had not the vanity to think that they could form a proper plan of proceeding; they, therefore, passed a string of resolutions," as Broomhead distinctly stated, "in compliment to those who drew them up, believing those persons to be men of knowledge, and having confidence in their judgment." Some of them appear, through a *perfect inattention*, merely to have done as others did; and Dowling, you will recollect, in speaking of the transactions at Chalk-Farm, said, that when the resolutions were read, and speeches made, he was

VOL XXIV.

at such a distance he could not hear what was said, but gave his vote in consequence of seeing all the rest vote. Some of them described themselves as being *totally inattentive*. You will recollect Archibald Hunter, a man who described himself at last, as having been a hair-dresser and perfumer; but who had, as he represented, forgotten what trade he had been of before he lived upon his means. He stated that he heard the resolutions at Chalk-Farm and the Globe tavern read, but he did not vote; he took no part in them; and he said of himself, that this arose merely from the inattention which pervades his whole conduct. I can easily believe that many other persons were as *inattentive* as this man was, and engaged as he did in such societies as this, without adverting to consequences. It is indeed miserable, that there should be such men, but more miserable that there should be persons who take upon them to lead such men, and to decide for them upon acts which are, unquestionably, at least of great importance, not only to those men themselves, but to every other man who lives in this country. For inattentive men, like these, might be led to the most violent measures, without in the least judging for themselves upon the subject.

Gentlemen, almost every one of the witnesses who were produced on the part of the prisoner from the London Corresponding Society (for I think there is only one from the Constitutional Society) but almost every one of the witnesses for the prisoner from the London Corresponding Society has been of this description; and the only witness who was of the Constitutional Society, was Mr. Wills, the dancing-master, who was a member of both societies. He said he was little acquainted with their proceedings; he never looked into their books, though it appeared that the books of the Constitutional Society constantly lay upon their table; he never heard of a secret committee, or a committee of correspondence, till he read it in the newspapers, though it has been proved that the whole business was transacted by the committee of correspondence, or secret committee. That committee was not, indeed, originally named a secret committee, but it got that name, as a nick name, from all its proceedings being secret; and finally it got that name from its very members. Upon the whole of the evidence of Wills, you must be persuaded that he was not a man whom they would have sought as a member of either of the societies from any other motive, than that he appeared very willing to part with his money, and probably was in better circumstances than most of them were.

The producing witnesses of this kind is a strong circumstance; because if they had meant that the transactions of the London Corresponding Society should be openly examined; if they had thought the transactions of that society could bear the face of open day, would they not have brought the acting men,



the managers of the society, those men who had been delegates, who had been of the committees, so far as they were not directly implicated in the accusation now made? But not one man is brought forward, who has ever been a regular, constant attendant of the London Corresponding Society; for, to the best of my recollection, the greater part of those they did bring, had not attended the society for a considerable time before the prisoner was taken up; so that with all the recent transactions they were utterly unacquainted. According to my recollection, Dowling and Hunter were the only persons who had been present at any of the recent transactions, and they could give no account of them. Hunter from his inattention; and Dowling did not admit, that he had been any where but at Chalk-farm, and he did not hear what passed there.

There were, however, among the persons thus deluded, some men of more observation, or better understanding; and this I particularly apply to one of the Sheffield witnesses; a man of the name of Widdison. You will recollect the circumstances under which he gave his evidence, and the temper with which he gave it. For I must beg to deny what is asserted by the counsel for the prisoner, that you are to give equal credit to every part of what a witness says.—When a jury perceives, that a witness has a bias upon his mind, they are to try his credit, according to that bias.—It would, unquestionably, be necessary to do so, if his bias arose from any other cause; but, if it arose from prejudice, you are, nevertheless, to weigh that circumstance, and see how it affects his credit. For the most honest man in the world would be misled by that kind of bias; and when you hear persons giving their evidence, and perceive, from the manner in which they give it, and from the terms which they use, that they have a bias upon their minds, you are to determine which way that bias lies, and to give a due degree of credit to their testimony, having regard to the probable effect of that bias.

Gentlemen, Widdison states that which must induce you to think, that he had, at length, seen through the veil which covered these proceedings. For Widdison states, that he had agreed in opinion with Yorke; that some few weeks before Yorke left Sheffield, he had a conversation with him about universal suffrage; he told Yorke, he thought that was going too far, and that he would have nothing more to do with it. What could have made this alteration in the mind of Widdison, if he had not perceived, as the matter developed itself, things which were concealed from him before? As he saw farther into the business, he thought he saw danger in it, and therefore he would have nothing more to do with it.

Gentlemen, you will recollect that Widdison was one of the Sheffield committee, and yet he never saw Davison's letter about the pikes.—Now that is an extremely striking circum-

stance; because it shows, that those who had the management of affairs, at Sheffield, began to find that Widdison did see a little into the business, and therefore that very important letter was not communicated to him.—I think you will likewise see, that Broomhead began to have a few scruples upon the subject, by the nature of his evidence. You observe, he knew nothing of this letter. The letter originally proposed, that Mr. Hardy should send his address, with respect to the pikes, to Broomhead. Broomhead's name is struck out, and Moody's inserted in the stead of it. Whence could that arise? Broomhead was a very obscure man, and it was not likely much suspicion should arise from his name. They find out a man, who, from his own description of himself, was not likely to know any thing of the matter, and he suffered his name to be used, without any consideration whatever of the consequences.

Gentlemen, it strikes me, and I think, when I come to examine it, you will be equally persuaded, that the whole of that transaction, with respect to the pikes, at Sheffield, was an imposition upon the minds of the people there. For what was the case? The alarm was spread—how, God knows—but an alarm was spread, that the aristocrats, as they called them, were going to arm against them, and to disperse their meetings. For you are told that Yorke, Gale, and Davison,—and you recollect that Gale has absconded, as has been proved in the cause, and so has Davison—Yorke, Gale, and Davison, tell them, that it was lawful for them to have arms; that they were entitled, by the Bill of Rights, to have arms for their defence; that this aristocratic party would certainly attack them, and therefore they ought to provide arms. It is clear, that such discourse had been held at Sheffield; it is clear, that, in consequence of that discourse, the minds of these people had been agitated with the idea of a civil commotion; that they were afraid of some attack upon themselves; and, under that impression, they had provided themselves with pikes. Widdison always said, he would have nothing to do with it; and you will likewise remember, that Broomhead told you, there were expressions of Mr. Yorke, which he recollected, as improper expressions, because he felt pain when they were used.

These men were men of that description, that it required, that they should be alarmed to a great degree to induce them to arm themselves, under pretence of defending themselves; but when they were once armed, of what importance was it, whether the ground upon which they had been induced to arm, was to defend themselves, or not? If they had the arms in their hands, they might use them offensively, as well as defensively. That the persons who had the direction of the business must very well know, and they were not persons of inferior understandings.—Mr. Yorke has been described as a person of very



superior understanding. He well knew, that, if those persons apprehended any injury to themselves, an application to a magistrate would have tended most effectually to their protection; but he never told them to make that application. He never told them, "If you are afraid of having your houses burnt, or of being insulted in any way, apply to a magistrate for protection." No; he rather chose to make an impression upon their minds by what had passed from the Church and King party. I can easily conceive, that a violent party might have done very improper things, and very blameable; but use is made of that to induce these men to arm themselves; and that idea being once entertained, you can easily conceive to what length it might be carried, particularly when you recollect what dropped from one of the witnesses for the prisoner—that there was no difficulty whatever, when the plan was once settled, of having ten thousand pikes forged at Sheffield, in one day; therefore, all that was wanted was, to have the plan settled; that they should have some pikes, so that they might know what sort of thing to order; that the price, which is a very cheap one, should be fixed, and the other little circumstances arranged, of the length of the pole, and the materials of which it was to be made; and then a very few days would have armed a very large body of men, at Sheffield, with these pikes; and a body, so armed, might have been used in the manner which you will recollect Yorke stated to Broomhead, and in which those who governed them were well disposed to use them; namely, that rather than be trampled upon, in the way in which they were supposed to be trampled upon, he would have gone at their head, to London. A body of ten thousand men, with pikes, thus led, might have been like the Marsellois you have so often heard of, who have acted at Paris, in a manner not the most agreeable to humanity.

Gentlemen, in consequence of this plan of fraud, and of this credulity, you will remember, that motions were made on purpose to be rejected. That has been clearly proved in the transactions at Sheffield. The motion to petition parliament was made, unquestionably, for the simple and only purpose of being rejected, in order to its being the foundation of the subsequent proceedings. Do men mean to act fairly and honestly, who act in that way? And did the body of people, who attended upon that occasion, know, that that was a contrivance? The evidence has distinctly shown to you, that they did not know that it was a contrivance. When these men published to the world, in the printed proceedings of what passed at Sheffield, that a motion had been made for a petition to parliament, and had been rejected, and so on, was it not held out to the world as a fair *bona fide* proceeding? That the motion had been made, and rejected, because there were reasons for rejecting it? Whereas, in truth, and in fact, no such dis-

cussion ever took place; it was determined on before hand; it was made for the purpose of being rejected; and then, being rejected, other proceedings were directly to follow. I think, also, there can be little room to doubt, though there is not direct proof of it, that the proceedings at Sheffield were printed before the meeting was held. They were printed, certainly, according to the account which Broomhead gave, as nearly as possible to the time; so that they must have been prepared for printing at least before the meeting was actually held.

The proceedings at the Globe-tavern, you recollect, were printed, to be delivered on the eighteenth; whereas the meeting was not held till the twentieth. So it was determined before-hand, that certain resolutions should be passed; that certain things should be done; the whole proceedings which actually passed at the Globe-tavern, were all contrived before hand, by a knot of people; and, being so contrived, an account of them, describing them as having passed, was put into the hands of the printer; and but for an accident, but for the prisoner's happening to come in the way, the account would have been distributed before the proceedings were had; for the printer brought two hundred copies to the Globe-tavern, and he was told to carry them back again, except a few, which were taken perhaps, to be delivered to a few confidential friends.

Gentlemen, you will recollect, also, that the account of the proceedings, at the meeting at Chalk Farm, appeared very early. It does not clearly appear, that the proceedings were printed before hand; but they must have been all arranged before the meeting actually took place.

It seems to me, therefore, gentlemen, that a system has been pursued, which absolves a great majority of the persons, although certainly very blameable in many transactions in which they have been engaged, from a great part of the highly criminal intent imputed to the prisoner. They acted carelessly; they acted incautiously; they gave themselves up to their leaders—but they acted without any very distinct views of what they were doing; and they acted (many of them) under delusion, under false impressions. One of the witnesses, from Sheffield, I recollect, who was examined this morning (I have unfortunately mislaid the minutes I took of his evidence) but one of them, I recollect, said, that his object solely was, to have things as they were at the Revolution, in 1688; that glorious event, as he described it.—Now, gentlemen, let me call to your minds what change has been made in the constitution of the House of Commons, since the Revolution in 1688—soon after the Revolution the triennial bill passed, and the septennial act has since followed. That is the sole and only change, since the Revolution, in the House of Commons, except several bills which have had for their



object to exclude from the House of Commons, persons holding particular places under the crown, and persons having offices in the collection of the revenue, which might be considered as making them dependant; so that the alteration in the House of Commons since the year 1688, must be considered as rather for the benefit of the people, than disadvantageous to them; and therefore it is clear that the statement which had been made to this man on the subject, was a mere delusion upon his senses; it is impossible that the facts should have been stated to him in such a manner as to make him fairly comprehend them. And this was not the only man who was deceived upon this subject; for I think I remember another witness who said he was for restoring the constitution, as it was in 1688.

Gentlemen, the great majority being thus absolved from the high guilt imputable to the few, the few are involved in a guilt of still deeper die; not only the guilt which arises from the acts which they have committed, but the guilt which arises from their having induced others to be participators in those acts; who did not know, or who did not attend to what they were about; or who were misled, deceived, and imposed upon, by those who took the lead in these societies. Among these few, the evidence has certainly deeply implicated the prisoner at the bar. He cannot excuse himself as Broomhead, Dowling, Hunter, Wills, and other men of that description, have done. He cannot say he was little acquainted with the proceedings of the society; that he took no part; that he voted resolutions which he never heard. He cannot say that he never heard of the Committee of Correspondence, of the Secret Committee. The very name—a Secret Committee—shows that danger was understood to be in their measures; even the names of the members of this committee were finally unknown to the rest of the society; and by this contrivance, that the existing committee should be dissolved, but should name their successors without making the names of their successors known to the rest of the society. The consequence was, that a body was created, such as I believe never was permitted to exist in the government of any state.—When this business first came within my notice, I looked into the constitutions of those states which have been supposed to have provisions of this kind, of the most extraordinary nature; and I believe the Republic of Venice is considered as having the most extraordinary. They have no provision so tyrannical in its nature, or which might lead to such dreadful consequences, as this Committee of Secrecy, the very names of whose members are unknown.

So that this London Corresponding Society, a little state within the state; for such it is, and that is the danger of it, that it is a state within the great state, which is always a dangerous thing to the community; this London

Corresponding Society was given up to the most despotic dominion that was ever exercised upon men; a dominion over their minds beyond all example; for they were led to whatever measure their secret committee, consisting of persons whose very names they did not know, might think proper to adopt, and that upon grounds of which the rest of the society could have no opportunity of judging.

Gentlemen, the very existence of that secret committee was not only in itself dangerous, as it tended to blind their followers, while they were leading them to the brink of every thing terrible before they knew where they were, but it shows that the dispositions and intentions of those who formed it, were dangerous beyond a possibility of doubt. For how can it enter into the heart of man to conceive that their measures were such as they pretended them to be; a fair, an open, and honest attempt to remove what they considered to be an abuse—how could they receive it was necessary for that purpose to form such an institution as that which I have stated to you?—such a proceeding needs no secrecy; it might have been fairly and openly avowed, as it has been fairly and openly avowed. For, gentlemen, in this country speculative opinions upon government, and upon any other subject, if they do not immediately tend, by the proceedings taken upon them by the manner in which they are circulated, and other circumstances, to disturb the quiet of the state, remain untouched.—If they do tend to disturb the quiet of the state, unquestionably they are necessarily an object of animadversion: for no state can exist, if perpetual means are taken to disturb the public opinion in favour of its government—for upon what rests the authority of all governments?—government can be administered only by a few in proportion to the whole body; nothing can induce obedience by the many, but an opinion that in some way or other their good is best consulted by that obedience.—Habits of obedience, habits of submission to particular laws, induce submission to governments which are (used as we are to the government which the constitution of this country has provided) think terrible. That habit of submission reduces the inhabitants of those countries to continue to submit to the inconveniences they experience, rather than to endanger their own particular happiness by resistance. But if a society may be formed in a state, with such a secret committee, accompanied with such circumstances, it appears to me that no state can be safe. However wisely its government may be constituted, however properly that government may be administered (so far as the imperfection of the human mind admits of governments being wisely formed, or wisely administered) yet by lowering it in the public opinion, any government whatever may be destroyed.

Gentlemen, you will recollect that even in the French Revolution, of which we have



heard so much; in the constitution formed by the National Assembly of 1791, that assembly did not conceive it possible for a state to exist unless *some* restraint was imposed upon the extravagance of opinions, when in their circulation they aimed at the destruction of the state. That assembly also conceived that a state could not exist with such a combination of people in the form of clubs, as appears in this case to have been established in this country; and one of the last legacies which they left to their successors, as the attorney general observed, was a decree (unfortunately never executed) tending to prevent the dangerous effect of clubs by association, affiliation, and delegation, which have ever since continued to disturb that country.

Gentlemen, you will find that in the execution of this plan, which I cannot avoid calling a plan of art, of deception, and of mischief, whatever higher name may be attributed to it, the prisoner at the bar must necessarily have been concerned. For he was the person to whom in the character of secretary, all the papers of the society were to be addressed, and he was the person whose signature has been affixed to all such papers; and I would call to your recollection, gentlemen, that the very last witness called for the prisoner, Mr. Francis, a gentleman of education, and of superior understanding, considered the prisoner particularly recollect he made use of that soner as "a man of very good sense;" you expression—you will likewise recollect, that the clergyman whom he attended, described him in the same way; as "a very sensible man." You are not therefore to suppose that he was himself a man deluded. Indeed if you attend to the circumstances, it is impossible you should imagine that he was—you will find that Mr. Hardy was at the constitution of this secret committee which did what it pleased, communicating to the committee of delegates letters or parts of letters, or keeping back letters or parts of letters, as they thought proper; so that all their vast communications by correspondence with the country societies, was entirely in the hands of this small committee, I think of five persons only—He had also his private correspondence and communications, probably unknown even to the secret committee itself. In the very outset of the London Corresponding Society, in the formation of its constitution, you will recollect, and particularly in the progress of it, a very mysterious correspondence between Mr. Hardy, Mr. Vaughan, and Mr. Horne Tooke—you will recollect the perpetual correction in the handwriting of Mr. Horne Tooke, of divers papers produced to you; so that (Mr. Horne Tooke not being a member of the London Corresponding Society) Mr. Hardy must have acted in communication with him, and probably, from every thing that appears, in many instances without any communication whatever with the rest of the society. The prisoner's connexion with Margarot and Skirving, is also myste-

rious; and it is perfectly plain that he did not communicate to the delegates all that passed between him and Margarot and Skirving;—you will recollect that the first plan of sending delegates to the convention at Edinburgh, which afterwards assumed the title of the British Convention, originated in a correspondence between the prisoner and Skirving, which was expressly communicated only to Margarot. It appears by Hardy's letter to Skirving of the 5th of October 1793, that Skirving had written to Hardy privately, about sending these delegates; that Hardy had communicated it to Margarot; that they wished it to be officially communicated to the society; and the prisoner uses these words, "without any ways mentioning that you have written to me privately."

Gentlemen, here you see was a contrivance to induce the sending delegates from this country to the convention which was intended to be assembled at Edinburgh; and by whom is the contrivance? I do not mean to say, that the persons I am going to name, are all the people that were concerned in it; but they are all whose names appear in this particular transaction; Skirving, Hardy, and Margarot; no other person appears at all privy to the original idea;—on the 5th of October 1793, Hardy writes to Skirving—From that letter it appears, that there had been a private correspondence between him and Skirving upon this subject; that this had been communicated only to Margarot; and that Margarot and Hardy, consulting together, determined that it would be proper, that an official letter should be written upon the subject, which Hardy might be able to show to the delegates. If in that official letter Skirving had stated the fact, that there had been a private correspondence between himself and the prisoner upon the subject, the delegates would have said, "where is that correspondence? we have never heard of it before." Therefore the prisoner tells Skirving, do this "without any ways mentioning that you have written to me privately." Is it not evident from this letter, that the previous correspondence was concealed from the rest of the society, from the committee of delegates, even from the committee of Secrecy, as well as the body of the society? that all this was a contrivance between Skirving, Hardy, and Margarot, for the purpose of inducing the society to send delegates to this convention? Skirving then sends up a letter, in a great hurry, saying there was no time to be lost. This the Corresponding Society is to communicate to the Constitutional Society, and delegates are chosen, and are sent to Edinburgh.—Probably this was a sudden thought; and I think, when I come to investigate the transaction more particularly, you will be of opinion that it was so. But it demonstrates that the prisoner had the contrivance of all the transactions, and particularly of this transaction.

Gentlemen, if you advert to the correspon-



dence which took place after Margarot and Gerald went to Edinburgh, you will see that the correspondence between the prisoner and them became partly private, and partly of an official nature; and there is one letter, of the 8th of December, 1793, in which Margarot says to Hardy, "You may consider this as a private letter; but you may read such parts of it as you may think proper, to any member of the society, especially where it may be productive of good."—Gentlemen, this letter shows that Margarot had a perfect confidence in the prisoner; that he relied upon him in the whole transaction, and that he left it to his discretion to produce to the rest of the society, such parts of this letter as he should think proper to communicate.

Gentlemen, there are several other letters, with which I will not trouble you, in which it appears that the same sort of secrecy was kept up; and on the 17th of April, 1794, there is a letter from Margarot to Hardy, in which he expressly tells him, "Show this to nobody." All these circumstances seem to make it impossible to consider Mr. Hardy, either as one who could be deceived, or as inattentive, or ignorant. He must be ranked in the number of those persons who led the society, and as one of the most active.

Gentlemen, considering him in this light, and conceiving, therefore, that the evidence presses as strongly against him as against any other man, I shall endeavour to investigate, first of all, the law upon the subject, and then consider how that law applies to the facts; and I shall go pretty much at large into the law, in consequence of what passed from my learned friend who led the defence for the prisoner, and who entered pretty much at large upon the subject; the gentleman who followed him having also in some degree addressed you upon it.

Gentlemen, the indictment is framed upon the statute of the 25th Edward 3rd, upon which you have heard a great deal. The prisoner is charged with high treason in compassing the death of the king; and you have been told that the law makes the mere intent, followed by any act done in pursuance of that intent amount to the crime of high treason. Therefore the indictment states various acts to have been done by the prisoner, in pursuance of the alleged intent. The first of these is a conspiracy to procure a convention to be assembled to subvert the legislature, and depose the king. Evidence has been given of various matters which I am to contend prove this fact, and several other facts charged in the indictment as overt acts; such as composing and publishing various books and papers, containing incitements to send delegates to the convention—consulting about assembling such convention—agreeing upon the appointment of a committee for that purpose.—These are charges which relate to the assembling the convention.—There is a charge of procuring arms, to oppose with force the

king in the execution of his authority, and forcibly to alter the legislature, and depose the king.—There is another charge of a conspiracy to levy war—another of a conspiracy to alter the government and depose the king—and others which are nearly of the same effect, intended to meet all possible cases which might arise on the evidence which has been laid before you.—It is for you to judge, from that evidence, whether the prisoner at the bar, and those with whom it is alleged he conspired, had formed any design which would render their minds guilty within the meaning of the law; and whether he had demonstrated this criminal intent by any act, or acts, in furtherance of it, so as to bring him within the penalty of the law. And, gentlemen, you must likewise consider, whether the acts so done, have been proved as the law requires; that is, one act by two witnesses, or two acts, each by one witness; and whether you give credit to the evidence.

With respect to the formality of the evidence, as no objection has been taken to it, (and no objection, I apprehend, could be taken to it), I shall not enter into that subject; and I conceive that the only subject for your consideration now is, how far you are to give credit to the evidence adduced, and how far that evidence, if credited, gives sufficient proof of the charge contained in the indictment.

Gentlemen, with respect to the question of law in the construction of this statute of the 25th Edward 3rd, I venture to lay it down to you as clear law, that forming a design to take any measure by which, if pursued, the king's life may be in danger, and taking any step in pursuance of that design, brings the man who is guilty of forming that design and taking that step, within the provisions of the statute; and that it is perfectly immaterial whether the acts proposed to be done, or the measures taken, were or were not equal to the purpose. It is sufficient that the intent was conceived, and the act done in pursuance of that intent.

Gentlemen, before the statute of the 25th Edward 3rd, (as has been repeatedly stated to you) there was considerable uncertainty in the law of treason. Many acts were deemed treason, which were certainly merely contempts of the king's authority; and in consequence, the legislature was, in the 25th Edward 3rd, called upon to define treasons. In doing this, the legislature must have considered, if we suppose the persons who made this law to have had the sense and discretion which ordinarily belongs to men in that situation, and they have been generally considered as men possessed of great wisdom—indeed it is a general observation upon the transactions of the reign of Edward the 3rd, particularly with respect to law proceedings, that they were clear, plain, and unembarrassed, evidently the work of very superior men—it must necessarily have occurred to them, that it was not for them to consider, when



making the law of treason, what necessity there was for providing the law of treason as a distinct code.—The necessity is clear and plain:—An association of people, forming a state, must have some form of government by which the whole body must be submitted to some power. That power is differently constituted in different governments; but in every government it must of necessity be sovereign. Whatever that power is, it must act for the whole body, it must represent the whole body, and the act of that sovereign power must, in the government of that state, be taken to be the will of the whole. A state cannot exist without such sovereign power; it is the great bond which binds the whole together, and makes it really a state (for, without such a power to control, as well as to direct the actions of all individuals in the state, they never could act as one body, and as a state), thus giving to the whole body the unity which belongs to one person. The consequence is, that any attempt to destroy the constitution of the power so established, is necessarily an attempt to destroy the very purpose of the association by which the state is formed, and consequently to subvert the state itself; for the constitution of the sovereign power is an essential part of the agreement, or the compact, or whatever you will call it, upon which the people are united together in one association.

Gentlemen, it is the duty, therefore, of every person who is subject to the sovereign power of a state so constituted, to support, to the utmost of his ability, that power, as the necessary bond of the whole state; and his acting contrary to that duty is treachery to the state itself, and his crime is denominated treason.—Gentlemen, the true foundation, therefore, of the law of treason, as a distinct code, is the necessity of providing for the safety of the state itself, in the constitution of its sovereign power: as the principal object of the ordinary criminal law is the personal security and particular enjoyments of the subjects of the state as individuals. It has therefore become necessary, in all countries, to make a distinction between those acts which put in hazard the sovereign power of the state, and those which, though they may be contrary to the provisions of the laws, are merely contempts of the authority of that sovereign power to which the framing and execution of the laws is intrusted, and do not immediately put in hazard the constitution of the sovereign power, and therefore the existence of the state itself; or, if they do in some degree affect the safety of the state, are not considered as so dangerous as to require the severe coercion of the law of treason. As, for instance, libels, and publications of that kind, though they tend to affect the safety of the state, have never been considered as of that dangerous description, when standing alone.

When, therefore, the legislature, in the 25th of Edward 3rd, was called upon to de-

fine treason, it was necessary to consider what was the degree of treachery to the state which the safety of the state required should be punished with the high penalties annexed by law to the crime of treason.—For, previous to Edward 3rd's time, the crime of treason was a crime known to the law, and its punishment was defined. The defect in the law was, that the *crime itself* was not so clearly defined as the safety of the subject required; and therefore the law was made for the safety of the subject, that those acts which were not in so great a degree dangerous to the state, should not be so penal.

In the execution of the duty which the legislature were called upon to discharge, they declared that the penalties of high treason should attach upon those who were found guilty of compassing the death of the king, and particular persons of his family; of levying war within his realm; of adhering to the king's enemies, in his realm, or elsewhere; of counterfeiting the king's great and privy seal, and other acts of less importance.—At the head of this definition, is the compassing and imagining the death of the king; such compassing and imagining, or purpose of the mind, being manifested by some overt act.—That is the language of our law.—Upon the construction of this law I must confess that hitherto no sort of doubt has occurred to my mind. It has been attempted by the counsel for the prisoner to raise a doubt upon it, and particularly by the learned gentleman who is the leading counsel for the prisoner.—It seemed to me (and, notwithstanding the explanation which he thought proper to give, it still seems to me) that, in so doing, he contradicted that assertion which unquestionably he made in the character of an advocate in lord George Gordon's case, that, "The plain, unextended letter of this act of Edward 3rd was thought to be a sufficient protection to the person and honour of the sovereign, and an adequate security for the laws committed to his execution."—Speaking of the statute as consisting of different and distinct members, he adds, "I shall mention only two of the number, the other not being in the remotest degree applicable to the present accusation, *To compass or imagine the death of the king*; such imagination, or purpose of the mind, visible only to its great Author, being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the government; the life of the prince being so interwoven with the constitution of the state, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other."<sup>\*</sup>

There I make use of the words of my learned friend; and I am sure, whenever I make use of his words, I cannot make use of better.—

<sup>\*</sup> See the case of lord George Gordon, *ant*, Vol. 21, p. 589.



What is the meaning of these words?—There cannot be any other than this; that a conspiracy against the life of the prince is a conspiracy against the constitution of the state, and a conspiracy against the constitution of the state is a conspiracy against the life of the prince; the life of the prince being so interwoven with the constitution of the state, that an attempt to destroy the one is justly held to be a rebellious conspiracy against the other.—The provision is not with a particular view to the distinct person of the man, though it is intended to preserve great reverence to whoever is upon the throne of the country, but it is because he is the king; but can it be supposed, that when the legislature was making a law upon this subject, for the express purpose of defining those crimes which should be deemed treason, it should have overlooked that sort of provision which was necessary for the preservation of the constitution of the state itself; that the law should so have remained until this day, and that it should be necessary, in the language of my learned friend, to resort to parliament, for an act to be made upon the subject?

Gentlemen, it is absurd to suppose, that if there really had existed this defect in the law from the 25th Edward 3rd, till this time, that the defect should not have been supplied. But it never yet has been understood that there did exist a defect in the law. It has been always understood that the provision of the law was adequate to its purpose; that it did sufficiently protect the state; that it has in all times, and in all instances, proved sufficient; and, therefore, the legislature has never (with this view) thought of making any farther provision upon the subject.

Gentlemen, when it is considered what is the nature of the government of this country, there cannot be a doubt upon the subject. For, in truth, the person of the king in name, is the state itself. All the powers of the state, legislative and executive, are nominally in him. Not really, because the king can make no law but by the advice, and with the assent of the Lords and Commons in parliament. He can execute no law but by his judges and other ministers of justice, according to a formed and regular establishment. He really does nothing, but he nominally does every thing. The consequence is, that he is, to all intents and purposes, the sole representative of the state; and in his name every act is done. Therefore, when the security of his person was provided for, and the principle was established that that person was so interwoven with the state itself, that they could not be separated, it necessarily followed that the security of the constitution of the state was provided for, in providing for the protection of his person; the sovereign power of the state never could be attacked, without an attack likewise upon the person of the king.

Gentlemen, it is impossible, therefore, as it

seems to me, to doubt that any attempt to subvert the constitution of the sovereign power in this country is, in effect, an attempt to depose the king from that character which he holds in the constitution of the sovereign power by law established; and it has been constantly held since the passing of that statute of the 25th Edward 3rd, that any attempt to depose the king necessarily involves an attempt against his life, under whatever pretence it may be coloured, and whether the intention be wholly to depose, and to put another in his place, or to destroy monarchy itself; or merely to take from the king his sovereign authority temporarily, for some certain purposes, such an attempt has been always held to be treason.

Gentlemen, I cannot doubt of this, and it should be necessary, I am persuaded my lord and all the judges upon the bench, will confirm what I say. I confess I should have been astonished to hear this doubted, if in the present age I could be astonished at any thing; but it is the temper of the times to hold on to the world that every thing which has been revered for ages, is now no longer to be revered; that the reason of man is become more powerful than it was in former times; and upon every subject new lights are to break in upon his mind; he is to be a new creature, no longer to be governed by the wisdom of former times, but to proceed entirely upon the theory of his own conceptions.

Gentlemen, when my learned friend argued this point, he appeared to me to feel that he was so struggling with authority, that he did not know how to manage the subject; and professing to be bound by those authorities, he at the same time pretty broadly intimated an inclination to put them all aside. You must recollect, however, that he did this, not simply in contradiction to the decisions of courts of justice, but in truth, in contradiction to the decision of parliament itself; to the decision of parliament in making laws, and to the decision of parliament, sitting in its judicial capacity. The ground upon which my learned friend has attempted to put his argument is, that the intent is the gist of the crime; and that when a man does an act in fulfilment of an intention, he must first have conceived the intention. Now, gentlemen, if by that is meant that he must have formed a distinct and clear purpose to do the particular act, nothing can possibly be more mistaken; not only in the case of treason, but in every other case whatever. If a man shoots at A. with an intent to kill him, and kills B. when he has no intention whatever of killing, yet he is guilty of killing B. with malice aforethought. So if a man lays poison for A. and B. takes it; and a variety of other instances there are in which it is perfectly clear that a man has been deemed guilty of a crime, which was the consequence of his act, although he had no distinct preconceived intent at the time, that his act should produce all the consequences which have followed it.



Gentlemen, in commenting upon this statute of the 25th Edward 3rd, my learned friend cited from lord Hale's Pleas of the Crown several passages. Page 80 was, I think, the first that he cited, where lord Hale says—"aceroaching royal power was a usual charge of high treason anciently, though a very uncertain charge, that no man could well tell what it was, nor what defence to make to it." And again in page 82, he says—"before the statute of the 25th Edward 3rd, almost every offence that was, or seemed to be a breach of the faith and allegiance due to the king, was by construction, and consequence, and interpretation, raised into the offence of high treason." For what purpose these passages were quoted by my learned friend I am at a loss to guess. They seem to me clearly to show, and were considered by lord Hale as clearly showing, what was the true intent of the statute of the 25th Edward 3rd, that is, that such acts as did not tend in their consequences, to endanger the life of the king, although they might be deemed in some degree aceroachments of royal power, or might seem to be breaches of faith and allegiance to the king, yet should not be deemed high treason. You will observe these are the two articles which he specifies in the two passages I have mentioned, and which before the 25th Edward 3rd were raised into the offence of high treason. The object of the statute was, that such offences as were not found in their consequences to endanger the life of the king, should not be deemed high treason, except (for in this the statute makes exceptions), except that it makes some acts which in some degree are aceroachments of royal power, or breaches of faith and allegiance to the king, though they do not tend in their consequences to endanger the life of the king, high treason. What are these acts? One is levying war within the realm. Now, levying war within the realm, in the sense in which these words have been constantly understood, and in which it is clear from the whole of the statute, that the words ought to be understood, may be a sort of levying war by way of resisting the king's authority, in circumstances which have no view whatever to the destruction of the government of the king, but merely opposing his authority. In the particular instance of adhering to the king's enemies, the act may not have even a remote tendency to affect the life of the king; and yet it is declared to be high treason. And so the other articles; counterfeiting the king's great or privy seal, or his money, &c. it is clear they could have no possible view to the endangering the person of the king. All these acts might seem to be in breach of faith and allegiance to the king, or coming under the other head of aceroachment of royal power. Counterfeiting the king's seal might be called the aceroachment of royal power; that is, taking upon the person who

VOL. XXIV.

does the act, a certain aceroachment of royal power; but could not by any means whatever affect the person of the king, and the means used could not in any degree put the king's life in hazard. The other two, levying war, and adhering to the king's enemies, might or might not put the king's life in hazard, according to circumstances; and what has been the consequence? If war is levied, or a man adheres to the king's enemies, under such circumstances as cannot possibly affect the life of the king, the person guilty can only be indicted upon those clauses of the statute which make levying war, or adhering to the king's enemies, treason; but if he levy war under such circumstances as may affect the life of the king, he may be indicted upon the first clause of the statute for compassing the death of the king, and the levying war may be given in evidence as an overt act of that compassing. If the object of that war is such, that it may endanger the life of the king, a conspiracy to levy it is unquestionably high treason, although the act speaks simply of levying war. And, therefore, a distinction has prevailed in the construction of the law, and the actual levying of war is necessary to constitute the crime of high treason under circumstances that can have no tendency to touch the life of the king; but if the object is, to destroy the sovereign power, or to depose the king from the exercise of that sovereign power, or restrain him in any manner in the exercise of it, a mere conspiracy to levy war for such purposes, is high treason within the first branch of the statute.

Another passage was cited by the learned counsel from lord Hale; it is in page 110, in which he states and which seems to me to be directly to the point for which I should have stated it, that "a conspiracy to depose the king, and manifesting this by some overt act, is an overt act to prove the compassing the death of the king, within this act of 25th Edward 3rd," and in page 111, he says, "compassing to depose the king is an evidence, or overt act within the meaning of the 25th Edward 3rd." He refers to lord Coke's Institutes, where lord Coke says—"As if divers do conspire the death of the king, and the manner how, and thereupon provide weapons, powder, poison, array, harness, send letters, &c. or the like, for execution of the conspiracy; also preparation by some overt act to depose the king, or take the king by force and strong hand, and to imprison him until he hath yielded to certain demands; this is a sufficient overt act to prove the compassing and imagination of the death of the king. For this, upon the matter, is to make the king a subject, and to despoil him of his kingly office of royal government; and so it was resolved by all the judges in England in 1 James 1st, in lord Cobham's case." And so it had been resolved by the judges in 49 Elizabeth, in the case of

4 G



the earls of Essex and Southampton.\* And he adds that it had so fallen out in several other cases to which he refers; particularly the cases of Edward 2nd, Richard 2nd, Henry 6th, and Edward 5th, and other unfortunate kings who had reigned in this country, and who lost their lives by such conspiracies. The same doctrine, with the same comment upon it, is also stated by lord Hale, with reference to the same cases; and sir William Blackstone, in his *Commentary*, considers these points as settled law.

Perhaps nothing tends more clearly to illustrate a point of law, especially to persons who are not in the habits of considering points of law, than the very terms of a case which has actually happened; and in that view I will state to you the proceedings upon the trial of sir Christopher Blunt, and other persons who were indicted with him, in 48 Elizabeth, for being concerned in that transaction of my lord Essex, which I think was mentioned by Mr. Gibbs. Upon the arraignment of sir Christopher Blunt and sir John Davis, who were indicted for high treason, in compassing the death of the queen, they confessed that their design was, to come to the queen with so strong a force that they might not be resisted, and to require of her divers conditions and alterations of government. This they confessed. Nevertheless they intended no personal harm to the queen herself; and that was the reason why they could not confess the whole indictment, because the indictment charged that they intended and compassed the death and destruction of the queen. Lord chief justice Popham told them—"whenever the subject rebelleth, or riseth in a forcible manner to over-rule the royal will and power of the king, the wisdom and foresight of the laws of this land maketh this construction of his actions, that he intendeth to deprive the king both of crown and life;—for the law judgeth not of the fact by the intent, but of the intent by the fact." To which the queen's counsel added; "this construction is no mystery or quiddity of law, but an infallible conclusion warranted by reason and experience; for the crown is not a garland, or mere outward ornament, but consists of pre-eminence and power; and, therefore, when the subject will take upon him to give law to the king, and to make the sovereign and commanding power become subject and commanded, such subject layeth hold on the crown, and taketh the sword out of the king's hand. The crown is so fastened on the king's head, that it cannot be pulled off, but head and life will follow, as all examples, both at home and abroad, do manifest. Therefore when their words testify one thing, and their deeds another, they are like the declaration of the conspirators with Cataline, protesting their only object

was their own security, that they sought nothing but just laws, and that liberty which no man would lose but with life. But admitting that the protestation of the prisoners was so far true, that they had not at *that time* in their minds a formed and distinct cogitation to have destroyed the queen's person, yet there is nothing more mutable than the mind of man. When they were once aloft, and had the queen in their hands, who could promise of what mind they would *then* be; especially as lord Essex, upon his arraignment, defended his first action of imprisoning the privy counsellors, by pretence that he was forced to it by his unruly company. So that if themselves" (that is sir Christopher Blunt and the rest) "would not have had, or would not *seem* to have had that extreme and devilish wickedness of mind as to lay violent hands upon the queen's sacred person, yet what must be done to satisfy the multitude, and secure their party, must then be the question."† That is, when they once had taken the measures which they meant to take, it was not in their power to say whether they would, or would not secure the queen's life. What must be done to satisfy their party must be then the question. Here, gentlemen, permit me to draw your attention to something which fell from Broomhead, one of the witnesses, who when he was asked whether there was any idea of violence or force, he disclaimed every idea of it *in his own mind*; but he added, "what persons might have done, if any convention had assembled, I cannot tell." A very sensible, very just, and very proper exposition of the law upon the subject. Sir Christopher Blunt, and those indicted with him, when the law had been thus stated to them felt the force of it. They said they had entered into a deeper consideration of the matter; they were sorry they had given the Court so much trouble, but the facts of the case were perfectly clear against them, and they confessed the whole of the indictment.‡ They were afterwards executed; and sir Christopher Blunt in his speech at his execution, said that which shows the propriety of drawing this conclusion, as an infallible conclusion, warranted by reason and experience, in the strongest and clearest manner. In his speech at his execution, he said, "although it be true that, as we all protested in our examinations and arraignments, we never resolved of doing hurt to her majesty's person (for in none of our consultations was there set down any such purpose) yet I know and must confess, if we had failed of our ends, we should, rather than have been disappointed, even have drawn blood from herself."§

\* See the case in this Collection, Vol. 1, p. 1333.

\* See the case of sir Christopher Blunt, and others in this Collection, Vol. 1, pp. 1410, 1411.

† See Vol. 1, p. 1411.

‡ See the speech of sir Christopher Blunt ante, Vol. 1, p. 1415.



Now there, gentlemen, is the confession of a dying man, who felt and acknowledged, in his last moments, that although he had never formed any distinct purpose of doing any injury whatever to the Queen in the transaction which he has engaged in, yet he saw the conclusion to which it inevitably led; namely, as they could not have submitted to have been disappointed in their purpose, rather than be so disappointed, they would have drawn blood even from their sovereign. It strikes me that nothing can more clearly demonstrate what is the true construction of this law than the bare narration of the case I have now cited. It shows that those who have construed the law in the manner in which I have stated it, have construed it by drawing infallible conclusions warranted by reason and experience.

Gentlemen, the cases which are mentioned by lord Coke by name only, the case of Henry 4th deposing Richard 2d, and Edward 4th deposing Henry 6th show that the humbleness of the demand at the beginning of a scheme of this sort may often lead to the most dreadful consequences. When the wife of Edward 2d conspired against her husband, and came over to this country with her infant son, her pretence was, that it was only against evil counsellors.\* In consequence of that declaration, numbers joined her, who were discontented with the king's government, unquestionably with very considerable reason. What was the result? The moment she had raised this power, she got the great seal into her hands, she issued writs for summoning a parliament in the king's name, without his authority, and in his absence; that parliament when it met, acting without the king's authority, was in effect in the nature of a convention; and they resolved to depose the king, and place his son in his stead. In consequence of this resolution, they compelled the king to make a resignation of his crown, which was in no degree voluntary; and they placed his son upon the throne. They had no intention to touch the king's life; but those who were more deeply involved in the conspiracy, the leaders of it, knew that this life was utterly inconsistent with their safety; and in a very few months, they contrived that he should be put to a most cruel death.

What was the case of Richard 2nd; was it not the same thing; and when we talk of the means by which a conspiracy is to be effected, we know that Henry 4th, when he first landed at Ravenspurg, had but twenty-six men. He came, relying upon the popular discontents within the kingdom, and he was upon the point of going back again; but being joined by a large body of people, the king was deposed, and put to death.

\* See the Proceedings against king Edward the Second in this Collection, Vol. 1, p. 47.

† See the Articles of Accusation against

Therefore you are not to imagine that a distinct cogitation, or intention to destroy the king, is necessary to constitute the crime of treason. If the act proposed to be done is that which in its consequences leads, according to ordinary experience, to the death of the king, or at least to endanger his life, the act is in substance high-treason.

Of the persons who formed the convention in France, for the purpose of establishing a government, such as it now is, probably when they deposed the king a great number had no idea of touching his life. We know it was a question extremely agitated among them, and there are strong reasons to believe that the majority of them, if they had been free agents, would never have consented to that act. But the question, after they had deposed the king, was not what they *would do*, but (as was observed in the case of sir Christopher Blunt) what *must be done*, to satisfy the multitude, and secure themselves. The moment they entered into those measures, they were no longer free agents, they could no longer control their own acts, and the consequence was the death of the king.

Gentlemen, this doctrine is also laid down with equal clearness in a book which has been cited by my learned friend, and which appears to me to demonstrate the impossibility of putting any other construction upon the statute. The manner in which the author states it, is thus—"The care which the law hath taken for the personal safety of the king is not confined to actions or attempts of a more flagitious kind; such as attempts either to assassinate or to poison, or other attempts, directly and immediately aiming at his life. It is extended to every thing, wilfully and deliberately done or attempted, whereby his life may be endangered. And, therefore, the entering into measures for depositing or imprisoning him, or to get his person into the power of the conspirators, these offences are overt acts of treason, within this branch of the statute. For experience hath shown, that, between the prisons and the graves of kings, the distance is very small."

Gentlemen, this is the language of a man, who has, in general, been considered as extremely correct upon this subject, sir Michael Foster, who was well known to many persons now living. He was considered as a man as little disposed to stretch the law, upon any subject, as any man that ever sat upon the bench; but he saw and felt, that the real meaning of this statute was, to provide for the safety of the constitution of the state, and for the safety of the person of the king, because he was the head of that constitution; and because, in providing for the safety of the king, the law necessarily provided also for the safety of that constitution; the crown being so fixed on the king's head, that it could not be pulled off, but head and life would follow.

king Richard the Second in this Collection, Vol. 1, p. 133.



I have, therefore, been much at a loss to collect upon what ground my learned friend could assert, that nothing could be a compassing the death of the king, under the statute of Edward 3rd, but what would amount to a compassing the death of any other man, under the common law. He attributed this assertion to sir Michael Foster; but, with submission to him, sir Michael Foster asserts no such thing in the passage to which my friend alluded. He is speaking only of the form of the indictment; and it is perfectly clear, that the case of the king, and the case of an individual, are in no degree parallel. For when the mere imagining the death of a man, accompanied with an overt act, was deemed, in law, as a homicide, it never entered into the idea of any man that, to remove a man from his office, or imprison him, were overt acts of compassing his death. But those acts, according to every authority, are overt acts of compassing the death of the king, within the meaning of the statute. The reason of this difference is clear. In the case of the king, deposing him, imprisonment, or any coercion of that kind tends to his death, with relation to his political character, because he is king, and for no other reason. You cannot use the term deposition to a private person, nor can imprisonment merely have any tendency in itself whatever to his death.

My learned friend stated another passage, from lord Hale, page 95, with respect to the statute of Richard the 2nd. At the time he read that passage, I apprehend he had the book in his hand. If not, he had certainly omitted to take from the book the passage which immediately follows. For, if he had stated both, he could not have mentioned the first passage, so as to raise any doubt in your minds. For lord Hale expressly states, that the statute of Richard 2nd, was merely for the purpose of making additional forfeiture of lands, and a new mode of trial; and adding some other circumstances in the four cases of treason, mentioned in the statute, all of which he states as being actually treason, within the statute of Edward 3rd, and one of them is deposing the king. So it perfectly appears, that lord Hale considered the statute of the 11 Richard 2nd, as in no degree affecting the original law upon the subject, and as intended to introduce only additional severe provisions, to establish a new unheard-of mode of trial, and to add some other circumstances; all of which it was thought proper, by a subsequent statute of the 4 Henry 4th entirely to sweep away.

Gentlemen, I mentioned to you, that the legislature had, both in its legislative and in its judicial capacity, given precisely the same determination upon the subject. The statute of the 7 William 3rd, limiting the time for indictments for treason, excepts, by particular words, persons designing, endeavouring, or attempting any assassination on the body of the king, by poison, or otherwise; but does

not generally except treason in compassing the death of the king; so that the framers of that statute must necessarily have conceived, that there existed cases which were (within the meaning of the 35 Edward 3rd) compassing the death of the king, and did not come within the meaning of assassination, or any such attack immediately upon the person of the king. And in prosecutions by impeachment, in lord Lovat's case,\* and lord Wintoun's case† where the charge has been of treason, in compassing the death of the king, the same decisions have been made. In lord Wintoun's case, sir Joseph Jekyll (who has generally been understood to have been a constitutional a lawyer, and as good a whig, as any that ever existed) states the law thus: "a conspiracy to levy war, with intent to depose the king, is treason; and such a conspiracy, to levy such a war, has been held to be an overt act of compassing and imagining the death of the king." He then speaks of another overt act alleged, which was lord Wintoun's joining with others, in proclaiming the pretender: "which," says he, "is endeavouring to set up another prince, in the room of his majesty, and I believe it will not be doubted, but that is likewise an overt act of the same species of treason; and if there wanted another overt act, the levying war against the king, with intent to depose him (which is likewise mentioned in the articles as a distinct species of treason) may serve for an overt act of the other species of compassing and imagining the king's death. For, though it is reckoned in the statute as a distinct treason, yet it doth not thereby cease to be of the nature of an overt act of compassing and imagining the king's death, which it was antecedent to its being declared a distinct species; and this point is likewise supported by authorities, and many attainders have been upon it."‡

This was declared, by sir Joseph Jekyll, on behalf of all the commons of England, on the impeachment of lord Wintoun, before the House of Lords; and lord Wintoun was found guilty of treason upon that impeachment; and judgment being pronounced against him, the king, as the head of the commonwealth, issued his warrant upon such judgment, for the execution of lord Wintoun. In that decision, you have, therefore, the three branches of the legislature, in their respective capacities, giving precisely the same construction of the act, which is now contended for.

Gentlemen, the assertion, that, if persons had conspired to seize (for instance) king William's person, and to send him back to Holland, expressly declaring, that they intended no harm to his person, they would not

\* See it in this Collection, Vol. 18, p. 539.

† See it in this Collection, Vol. 15, p. 805.

‡ See sir Joseph Jekyll's opening speech in the case of the earl of Wintoun, *ant*, Vol. 15,

have been guilty of treason, seems to me very extraordinary. In the assassination plot\* it appeared, upon the evidence, that the intention to kill the king was only in case the conspirators could not secure his person. Their design was not to kill him, but to endeavour to secure his person, and send him out of the country; and it was only in case they should not be able to secure his person, that they meant to assassinate him. In Laver's case† it was expressly proved, that the design to seize the king's person, was not for the purpose of killing him, but in order to protect him from insult. The intention of the party was, to make the pretender king, and to seize the person of George 1st, for the purpose of sending him back to Hanover.

In lord Cobham's case, in the reign of James 1st, the conspiracy was, to seize the king's person indeed; but not with any view of deposing him (except by depriving him of power for a time) nor for the purpose of injuring his person, in any degree whatever, but for the purpose only of compelling him to assent to the general toleration of the Roman Catholic religion in this country, and to certain acts, intended to be proposed for that purpose.

Gentlemen, under these circumstances I shall take the law to be perfectly clear, that, if a conspiracy is formed to despoil the king of his kingly office, and the exercise of his authority, in such manner as the spirit of the constitution requires, it is a conspiracy to depose the king, and therefore it is high treason in compassing the death of the king.

Gentlemen, it has been next insisted, that the nature of the evidence required to prove high treason is different from that which is required in any other case, by force of the word '*provably*,' used in the statute of Edward 3rd, and that, therefore, the evidence must be direct and plain. I conceive, in this respect, the evidence required is exactly the same as in other criminal cases, with the addition only of this circumstance, that there must be two witnesses, at the least; that is, either two witnesses to one overt act, or one witness to one overt act, and another witness to another overt act, of the same species of treason. With respect to any other distinction, in point of evidence, I have found no authority whatever. If the minds of the jury are not really satisfied; if the evidence will not produce reasonable conviction in their minds, in no criminal case ought a verdict of guilty to be pronounced. But if the minds of the jury are really satisfied; if the evidence would produce reasonable conviction in the case of a murder, of a robbery, or of any other crime, the verdict ought to be precisely the same, in the case of treason, as in any other case.

\* See in this Collection Vol. 12, pp. 1301, *et seq.*

† See it in this Collection, Vol. 16, p. 93.

Another objection which has been raised is, that the evidence has been carried to so great a length. It is perfectly immaterial, whether the evidence is long or short, with respect to the effect it should have when it is complete; whether you come to a conclusion by the proof of many circumstances, or by the proof of only one; for, if the conclusion and result of the whole is a conviction, in your own minds, of the guilt or innocence of the person accused, the consequence must necessarily be the same.

In cases of treason the evidence has often been very extensive, but certainly in no case so extensive as it has been in this. In lord Strafford's case,\* however, which was a case of impeachment, the evidence was very extensive, and took up a considerable length of time; and lord Coke, in that book which Mr. Erskine cited with so much respect, observes, that the compassing, intent, or imagination of the king's death, in a case of this species of treason, though secret, is to be tried by the peers; meaning the jury; and to be discovered by circumstances, precedent, concomitant, and subsequent. By such circumstances you are to discover the intent; and then you are to apply that intent to the particular acts which are alleged as overt acts of treason, if they do not in their very nature demonstrate the intent itself.

Considering the law to be clear, I will now state the nature of the conspiracy charged. It is not a simple conspiracy to destroy the life of the king upon the throne, and aiming only at him; but it is a conspiracy (as it has been attempted to be proved), in effect, to destroy monarchy altogether; in the language of one of the letters which has been read to you, to rip up monarchy by the roots, and plant democracy in its stead. And I conceive that this is to be drawn by fair conclusion from the facts demonstrating a treasonable conspiracy. An intent to destroy the monarchy, and an act in pursuance of that intent, demonstrate the intent to compass the death of the king, as plainly as an intent to rob is demonstrated by a man's coming up with a pistol to your carriage, and shewing that he has the power, or that he conceives he has it, to take from you your money. In such cases, without even demanding your money, if the thing were intended to be done, and means were taken for the purpose, the nature of the attack is utterly unimportant to the question of guilty or not guilty—it is unimportant (borrowing, as I may do for this purpose, the language of one of the Scots delegates, Mr. Gerrald) whether the life of the king is to be endangered by a robber on the heath, or by associated clubs; and I think that the latter is far more dangerous. History tells us that thieves have respected the persons of sovereigns, that they have felt for fallen greatness, which popular conventions never have done.

\* See it in this Collection, Vol. 3, p. 1381.

Gentlemen, I was repeatedly called upon by my learned friend opposite to me, in his address to you, to state the *point of time* when the prisoner first conceived the criminal intention imputed to him—my answer is, that it is perfectly immaterial *when* it was first conceived. The question is, did he *ever* conceive it; and if he did, and acted in pursuance of an intent so conceived, he is guilty of high treason, although the intent is not necessarily a distinct intent to destroy the king, but an intent to do any act which might endanger his life, by any probable consequences.

Now, gentlemen, has the evidence produced to you, shown any fact from which it may be fairly concluded, that there has been a conspiracy to take measures in consequence of which the king's life might be put in hazard; and has the prisoner done any act or acts, in furtherance of such design? I think when the evidence is attended to, that there can be no doubt upon the subject.

The attorney-general in his opening, stated a case, in which he attributed to several persons, and particularly to the leaders of these two societies (of both of which the defendant was a member, and to one of which he was secretary) one general object, which they considered as a common cause with other societies, and with all the friends of liberty, in all countries: the establishment of a representative government, founded on the principles of the Rights of Man—and he likewise attributed to them, a general pursuit of means, for the accomplishment of that object—first by enlightening the people, and secondly by assembling a convention (or meeting, or whatever name you choose to give it, for there is no magic in the word convention) which should assume the character of a convention of the people.

That is the material point—a convention which should assume the character of a convention of the people, for a convention of the people on the principles of the Rights of Man, must necessarily be sovereign. What are the people? The natural power is in the hands of the multitude; the force remains with them. If therefore those who have the natural force are to be called into action by the assembling of a meeting which is to assume the authority of a convention of the people, the whole people are called into action, and government is necessarily dissolved. There is an end of all government; every constitution must fall before such a power; because it is the people themselves, taking back into their own hands, that power which they had before delegated—I do not pretend to state principles contrary in that respect to what these societies have stated—that power which the people in all countries must be considered as having delegated. But the moment persons are assembled who take upon themselves the *character of a convention of the people*, upon every principle they must be, if they are what they assume to be, sovereign: and if they are not

what they assume to be, still if they assume to be a convention of the people, they assume to be sovereign.—Gentlemen, if this is clear, the end these persons wished to obtain was necessarily the deposition of the king, and something to be done in consequence of it. It does not absolutely follow of necessity, that the monarchy should be destroyed, and that a representative government should be established; for it is possible that the convention of the people so assembled might deliberate with wisdom upon the subject, might be of opinion that the monarchy was still the best form of government, limited in some way or other, and might therefore form a constitution which in its nature should be monarchical. But whether they should do so or not, still the *deposition* of the king would be in the interim as complete, as if they had actually destroyed him.

Gentlemen, the principles adopted by these clubs, give very little room for hope that if a convention of the people should have been assembled, acting upon those principles, they would have established a monarchical government. For, gentlemen, those principles (which they have repeatedly declared, in the evidence that has been laid before you, are principles never to be departed from) are first “the right of equal active citizenship, or the right of every individual to an equal share in the *government* of that society of which he is a member.” And here, gentlemen, I would beg leave to observe a very clear and marked distinction between *their* plan and what is called the duke of Richmond's plan—the duke of Richmond's plan never asserted any such right of every individual to an equal share in the *government* of the society of which he is a member. All that his plan went to, was simply this—an equal share in the constitution of that body of representatives who should act in the manner in which the House of Commons does in this country, in the legislature of the country—a thing as different as light and darkness, from an equal share in the *government* of the society of which he is a member—and yet you will find, throughout the resolutions of these persons, that constantly the right of active citizenship, the right of universal representation, is applied to the *whole government*, and is not confined, in any one instance (at least I have not found one) to such a body as the House of Commons is in this country. This right to an equal share in the government, is the necessary consequence and result of that principle upon which they assert the right of equal active citizenship; and it cannot be questioned, that the moment you assume that every man has a right to an equal share in the government of which he is a member, the moment you take that as a principle, all the rest must necessarily follow.

The next assertion of these societies is, that the exercise of that right of equal active citizenship in appointing an adequate represen-



tative government, is essential to the security of that very right of equal active citizenship. So it unquestionably is; because in no manner but by the election of all those with whom power is entrusted, can every individual enjoy the right of equal active citizenship. But if there are to be peers, and a king in the country, there cannot be equal active citizenship. If the king and peers are to have a distinction, however small it may be, they cannot be equal active citizens with the rest. You must perceive, therefore, that the moment it is established as a principle, that there is a right in every individual to an equal share in the government of the society to which he belongs, monarchy falls to the ground, because it is utterly inconsistent with that principle; and you will recollect, that in the books which have been produced to you, this is laid down as a very clear consequence from the principle; and it is asserted, that there was a manifest contradiction in the French constitution of 1791, because, having established the principle, it still retained a king in its form of government.

There was another objection I recollect, to this French constitution, resulting from the same principles. That all persons ought to be deemed equally qualified to vote for the election of a representative body, however small their property; so that every individual ought to have an equal right of voting. Having established, therefore, the right of every individual to an equal share in the government of the society of which he is a member, and the exercise of that right in appointing an adequate representative government, they necessarily claim, as one of the rights of man, in the third place, "The right of universal suffrage and annual parliaments;"—And this, not merely as a wise regulation, but as necessarily included in the constitution of a representative government, formed on their principles.—It is stated by Mr. Paine and Mr. Barlow, that a government in which those rights are withheld, is an usurpation of the rights of man; and so it necessarily is, if these authors are right in their first principles.—This original and continual right of universal suffrage is also a necessary consequence of the right of equal, active citizenship; because that equality must necessarily be destroyed by long delegation of either legislative or executive power; and therefore the delegation must be renewed as often as circumstances will admit.

A fourth necessary consequence is, the right of perpetual revolution. The right of changing their constitution and government, when, as often, and in what manner they may think proper; still, necessarily, according to their principles, adhering to some form of representative government, frequently to be renewed; because any form of government, which is not a representative government, and is not frequently renewed, is necessarily contrary to the right of equal, active citizen-

ship; and it therefore is, according to their principles, an usurpation of the indefeasible rights of man, and is unlawful—tyranny—despotism—or is liable to any other of the harsh appellations which they are pleased to apply to every existing government in the world.—Gentlemen, this conclusion is inevitable from the principle which they assume, of equal, active citizenship.—I certainly will not here dispute with them the truth of their assumption, whether it is well or ill founded. I think it would be no very difficult task to prove that it is ill-founded; and for this reason, if for no other, that it necessarily leads to perpetual and constant revolution. But, without entering into any discussion upon the subject, it is sufficient that these are no principles, nor ever have been conceived to be principles, in the English constitution.—They are utterly inconsistent with monarchy; they are utterly inconsistent with a House of Lords; and with many other parts of our establishment; and therefore, persons who attempt to procure the establishment of these principles, as principles upon which the constitution and government of this country ought to be founded, and who hold that any government founded upon other principles, is necessarily an usurpation of their indefeasible rights, if they take any steps whatever for the purpose of altering the established government, they must be conceived, *primâ facie*, to have within their view the intent of destroying the existing government, of abolishing the kingly office, of abolishing the House of Lords, and all the great officers, ranks, and distinctions in this country; of abolishing also the House of Commons, as it is now established, and of forming a constitution of government upon their own principles because no other constitution of government can, according to the tenets which they hold, be a lawful government.

Now, gentlemen, it is proved that persons holding these principles, had formed a design for assembling a convention or meeting, which should assume the character of a convention of the people; that in the prosecution of this design, they did various acts; and particularly, that the prisoner at the bar did various acts—writing letters, being present at meetings and a variety of other acts, all tending to the completion of this purpose.—A case so proved, must necessarily amount to high treason, because it is impossible that the conception should have been formed for assembling a convention under such circumstances, without those who formed it conceiving in their minds a wish and purpose to destroy the existing government, and to establish in its place a government founded on principles totally opposite to those on which the existing government is founded.—When such persons assemble for the purpose of effecting a reformation in the government of the country, it is fairly to be presumed, in the first instance, that they do it for the pur-



assembling a general meeting, that they should have thought it proper to have given that meeting a different denomination than that which had been assumed by other meetings of the same nature.

In what manner did the delegates, assembled (as proved by the prisoner) to take into consideration the election of Scotch members of parliament, proceed?—They had a bill framed, intended to be introduced into parliament; they applied to parliament upon the subject, and a bill was brought into parliament. To draw any comparison between that sort of meeting, and that which these persons proposed to have, seems to me to be perfectly absurd.—I observe, Mr. Gibbs laid particular stress upon some words made use of in one of the resolutions for the purpose of assembling those meetings, from which he intimated that their object was only to collect the opinions of the people upon the subject, or to take means to consider what were the proper measures for the purpose.—But, gentlemen, when one recollects all that they have declared upon the subject; when one recollects that they have repeatedly declared that the people were not to look for relief from the parliament, as it was constituted; that it was not to be expected of those who were in possession of power, that they would part with it without a struggle; when they declared they expected relief from their own laws, and not from the laws of their enemies, their plunderers, and oppressors; I can conceive no other sort of meaning to be attributed to those words, than that of considering in what manner they should obtain a reform by means of their own power.

But, suppose they had not had it in their view to have acted immediately themselves as a constituting assembly, though assuming the character of a convention of the people, which I think I shall show you they clearly meant to do, as the British Convention expressly did—I cannot understand why they were not to act—did they propose to meet with a view to suggest the idea of calling any other meeting upon the subject, or to do any farther act?—If they did not intend to submit themselves to the established legislature of the country, their act was necessarily an act of usurpation of the sovereign power; and if they were simply devising the means by which the people, at any future time, were by their own power to do this for themselves, it is exactly the same thing as if this Convention, had it been assembled, should themselves do it.—They would be only doing it more remotely; but they would be taking steps towards effecting their own original design—that of making a change in the existing government, by their own power, and not by the free power of the existing legislature.—Gentlemen, if they had conceived this particular design, still I conceive their proceedings would have been equally destructive to the existing government; for the means taken

VOL. XXIV.

for the purpose, must be all tending to effect the great plan which they had in view, and which they clearly meant to effect by their own strength, and not by any such application to the legislature as has been contended.

Gentlemen, when you consider what has passed in France, you must be perfectly aware of the effects of a national constituted assembly. When the states general of France were called together by the king, before half of them were assembled, such of them, who were principally of the third order, as were assembled, declared themselves to be a national assembly; that is, an assembly of the people; and they immediately declared that according to that principle, namely, that they were an assembly of the people, the king could put no negative upon their proceedings. That was one of the first measures of that assembly; and the moment they had done so, it is evident to every person who has looked at all into the history of that country, that the king of France was, in effect, deposed from that very moment (I think the 7th of June, 1789) by less than a moiety of the whole assembly intended to be convened, meeting together, and assuming the character of a convention of the people; declaring themselves a national assembly, and that the king could put no negative upon their proceedings, and that they would not separate till they had effected their purpose. They immediately took upon them to act as the sovereign power of the country; they took upon them to declare that all the existing taxes were illegal; that those taxes should be received for a time, but should only be received so long as that assembly should sit. From that moment, therefore, in effect the king of France was deposed; a constitution was afterwards formed, and to that constitution he gave his assent in 1791. He was then again upon the throne; but upon which throne he was not king in the character which he had before, but he was king by a perfectly new title, and in a perfectly new character. Such is the necessary course, and such the necessary consequence of a national constituted assembly. If you look to what has passed in your own country, and to that which is so continually referred to in the course of these proceedings, namely, the Revolution in 1688, you will find, to a certain extent, the same thing done;—for what was that assembly which placed the prince and princess of Orange on the throne?—King James having done that which occasioned a general rising of his subjects against him, he deserted the country, and an assembly was called, under no regular authority, but under letters similar to those which had been used for the purpose of calling together the persons who were entitled to be summoned to parliament, and letters directed to the sheriffs of the several counties, to cause elections to be made by the persons entitled to vote for members in the



returned to parliament. That assembly met—in what character? It met as a convention of all the estates and degrees of the people; it acted as such; its authority was acquiesced in, and it did all that was necessary for its particular purpose. The government of the country remained as it was, with the exception of one single circumstance—the throne was vacant—the Convention supplied that vacancy; and from the moment it had supplied the vacancy, by declaring the prince and princess of Orange king and queen, from that instant, its character as a convention ceased; it was no longer an assembly which represented the three estates of the realm, it was assumed by William to act as a regular parliament, and from that time acted as such, having before acted as a mere convention or assembly of the three estates; in consequence of which, when acting as a parliament, it was commonly called the Convention Parliament. But in the act of giving the crown to the prince of Orange, it acted with complete sovereign power, and acted in rebellion, if I may so term it, to James the 2nd; for he would have been completely deposed the moment that convention assembled, if he had not previously abdicated the throne; and this is a necessary consequence of assembling such a species of convention.

Gentlemen, the moment, therefore, as I conceive, that there is an assembly assuming to itself the character of a convention of the people, and able to sustain itself against the government of the country, there is an insurrection against that government, and all those consequences follow which are so fully detailed in that speech of Barrere, which was read to you—the king is immediately deposed, and deprived of his inviolability, so far as a convention has power to act.

Now, gentlemen, if a meeting which could assume the title of a convention of the people, could lawfully assemble themselves, what must be the consequence? If the meeting is really a convention of the people, and it be lawful for them to assemble, the king must be bound to obey; he is no longer sovereign, or the head of the sovereign power; the parliament must also be bound to obey this convention. Being in its nature the sovereign power of the state, resistance to its authority must be resistance to the sovereign power of the state; for the moment the meeting assembled, it must be the sovereign power, and the king, in the very act of resisting the authority of such an assembly, if it could afterwards sustain itself, must be guilty himself of what might be deemed treason against the sovereign power of the state; he would be resisting the power which he ought to obey, and the assembly would have a pretence for putting him to death; the very same pretence as in the case of king Charles 1st. If, therefore, it appears to you that these persons had formed a conspiracy to assemble a number of persons who should assume, when assembled, the

character of a convention of the people, and that they had taken steps for that purpose; that alone would constitute the crime of high treason.

Gentlemen, the conspiracy which has been alleged is of a very wide and extensive nature; a circumstance which has occasioned a considerable degree of complaint on the part of my learned friends, as it has produced very extensive evidence. The persons concerned have been acting at different times in different places, and sometimes, perhaps, by different means, but all of them having in view, as I conceive (when I say all, I mean the leaders), one grand plan, the accomplishment of which was the object of all. This has occasioned the distribution of the evidence into those two parts noticed by Mr. Gibbs, which were produced to establish, first, the existence of the general conspiracy; and secondly, the part which the prisoner had in it. I conceive that when you consider the evidence taken altogether, you can have no sort of doubt of both.

Gentlemen, let me take the evidence a little by degrees; and in so doing, as I see there will be no end in taking it in detail, I shall necessarily trust to your giving some credit to my assertion, without referring to every part of the evidence, expecting his lordship will afterwards sum it up more in detail to you. From the several publications and papers given in evidence, I think I may assume it to be perfectly clear, that there were *some* persons in this country—and I will instance Mr. Paine, and Mr. Barlow, who were desirous of effecting the general destruction of the British Constitution, and particularly of monarchy, and all hereditary honours; and who were disposed to promote, to the utmost of their power, any measures for that purpose. I think, gentlemen, you cannot have attended to the evidence, without admitting that I do not assume too much, when I assume that it cannot be fairly contended that such persons as Paine and Barlow were not, in effect, conspirators against the constitution of this country. There were persons also in France who came under the same description, and particularly (with great submission) I shall venture to include in that description the French National Convention; for they were clearly disposed to establish that doctrine here, which they had established in their own country, but which is directly adverse to the British Constitution; and they were desirous of doing it for this reason, because they felt that their own safety depended upon it. You will recollect, perhaps, a passage in Paine's work, which I think was read;—"When France shall be surrounded with revolutions, she shall be in peace and safety." And the Society for Constitutional Information, and the London Corresponding Society, accordingly addressed the National Convention in November, 1792, (which, by-the-by, neither of the counsel for the prisoner at the bar took any notice of whatever, though they appeared very impor-



tant papers, for the purpose of showing the intention of these people);—You will recollect that the London Corresponding Society, in particular, “*servently supplicated the Almighty Ruler of the Universe to be favourable to the cause of the French, so intimately blended with their own.*” This you will recollect was not during the existence of the Constitution of 1791, but after the destruction of that constitution, and the total deposition of Louis 16th; and *then* they considered the cause of the French as intimately blended with their own. How could it be blended with their own, unless it was their object to establish in this country a government upon the same principles upon which the French had established their government, or were endeavouring to establish a government? They conceived “*that it was their duty to countenance and assist, to the utmost of their power, the champions of human happiness; that they would therefore oppose, to the utmost of their power, any thing hostile to them on the part of Great Britain; and they looked to the triple alliance of the people of America, France, and Britain to give freedom to the world.*”

Gentlemen, the words which are made use of, are very strong; for it is not simply “*of the people,*” but they are—“*If you succeed, as we ardently wish, the triple alliance (not of crowns, but) of the people of America, France and Britain, will give peace to Europe, and freedom to the whole world.*” Therefore they did not simply make use of the word “*people,*” an expression that might comprehend the whole; but they expressly negatived crowns. There existed no crown in America—at that time none in France; the only country mentioned in this paper which had a crown was Great Britain. Therefore when they ardently wished a triple alliance, not of crowns, but of the people of America, France and Britain, to give peace to the whole world, what do they do but in terms, not to be controverted, declare, that it is their wish and intention—that is, that they had formed a conspiracy, for I do not know what a conspiracy is, but forming a wish and intention to do a thing—that they had formed a wish and intention of establishing a government in this country without a crown? I can give it no other interpretation. In another part of their address they say—seeking our real enemies, we find them in our bosoms. We feel ourselves inwardly torn by, and ever the victims of, a restless and all consuming aristocracy, hitherto the bane of every nation under the sun. Wisely have you acted in expelling it from France.”

Why, gentlemen, what do they mean by “*aristocracy*” here? What can they possibly mean but to refer to that part of the constitution in the government of this country which may be deemed aristocratical?—do not they declare in that passage, that they consider every thing to which they can give the deno-

mination of aristocracy, as their real enemies; that they consider it as the bane of every nation under the sun; and, therefore, they conceived the French had acted wisely in expelling it from France? It must have been their opinion that it would be equally wise to expel it from this country. For what purpose could this address be presented to the French Convention? There might be two purposes; one that of publishing to the country here, in a way which they might fancy to be in some degree safe, a declaration against the existing government of the country; a sort of proclamation of a republic; and another, a holding out to the French Convention, that they were desirous of receiving every assistance from that country which could possibly be given, for the purpose of enabling those who addressed them to establish the same constitution of government in this country, as had been established in France.

The Address which was presented by the other society, the Society for Constitutional Information, is full as strong. You observe, the learned counsel for the prisoner have cautiously avoided taking any notice of this address. In truth, they were unable to give any explanation of it. How does this address begin? “*Servants of a Sovereign People, and Benefactors of Mankind,—We rejoice that your Revolution has arrived at that point of perfection, which will permit us to address you by this title.*” The degree to which, as they conceive, a Revolution must arrive to be at its point of perfection, is, when those who have the administration of the government of the country, are to be addressed in the character in which they thus address the French Convention; that is, “*Servants of a Sovereign People.*” What is this but a declaration, that the perfection of a Revolution in government, is the establishment of the principles, which we have before adverted to, of the Rights of Man, and equal citizenship, and so on, in which the people are to be considered as constantly sovereign as constantly exerting the sovereign authority, and as having a perpetual control over the whole government of the country; not an indirect and remote control; that species of control, which is consistent with the stability of the government of a country; but that which leads, in its principle, to the sort of perpetual Revolution, upon which I have before observed? The address proceeds, “*We rejoice that your Revolution has arrived at that point of perfection, which will permit us to address you by this title; it is the only one that can accord with the character of true legislators.*” Is not this a clear and express declaration, that they did not consider the legislature of this country, as having that title which could accord with the character of true legislators? For no reform in the House of Commons, alone, could give to the legislators of this country, a title to that character, according to the idea of these persons upon the subject.



For the King and House of Lords, still remaining parts of the legislature, and being hereditary, could not, by any possibility, come within that description which they meant to attribute to the French Convention.—They add, “Every successive epoch in your affairs has added something to the triumphs of Liberty; and the glorious victory of the 10th of August, has finally prepared the way for a constitution, which, we trust, you will establish on the basis of Reason and Nature.”

Gentlemen, I have nothing to do with the propriety or impropriety of the conduct of those who were concerned in the transactions of the 10th of August. It would be wrong for me to blame one side or the other. But to which ever side blame was imputable, what was the event? The event was the destruction of monarchy. That is here called a glorious victory; it is said to have finally prepared the way for a constitution, which the society trusted would be established on the basis of reason and nature; it had brought them to that situation which enabled them to arrive, finally, at that point of perfection, expressed in the former part of the address.

Now, gentlemen, to say that any persons who could give their assent to that Address knowing what they were about, or attending to it, entertained a sincere attachment to any of the principles upon which the British constitution is founded, is asserting that which it seems to me, that no rational man can possibly give credit to. I cannot help here observing, by the way, upon the words,—“Finally prepared the way for a constitution, which, we trust, you will establish on the basis of reason and nature.” Gentlemen, you will recollect there were two passages; one in Mr. Paine’s work, the other in Joel Barlow’s, before this glorious victory of the 10th of August, which expressly stated, that they looked to that event; to the destruction of the constitution which had been formed in 1791, for this reason; because it was formed in contradiction to the principles of the Rights of Man, in the parts of it which consisted of a monarch, or any thing in the nature of distinctions of privileged orders. That so far as it had any sort of distinction whatever, and was not completely founded upon the right of equal active citizenship, it was a compound of contradictions, as, I think, Paine calls it in his publication, the Rights of Man, and therefore in its nature it could not subsist.

In another passage of the same address, speaking of the cause of the French, they say, “It is, indeed, a sacred cause. We cherish it, as the pledge of your happiness, our natural and nearest friends”—Then they say, that they speak, as they conceive, the real opinion of a great majority of the English nation; and, finally, they conclude with the “wonderful splendor of the French revolution, hursting forth upon the nations, in the full fervor of the meridian sun, and displaying in the midst of the European world, the prac-

tical result of principles, which philosophy had sought in the shade of speculation, and which experience must every where confirm. It dispels the clouds of prejudice from all people, reveals the secrets of all despotism, and creates a new character in man.”

Now can a more clear comment be read, upon the words of Paine and Barlow, than the words contained in the passage which I have just read? Do they not clearly show you, that those societies are here stating a combination of principles with practice, in the same manner as Paine has done, in the second part of his works? That they are endeavouring to remove that prejudice from the people, which Mr. Paine conceives supported monarchy and aristocracy in this country? It is said, by Paine and Barlow, that the first assembly, which ended in the year 1791, had been obliged, through the prejudices of the people, to form that constitution in the manner in which they had formed it, retaining a king, because the prejudices of the people would not at that time, permit them to form a government, without a king. It was too much, at that time, to form a government without a king; but the principles upon which they formed their government, necessarily led to the destruction of that portion of monarchy which they had left.—“Your example will be soon followed? for nations, rising from their lethargy, will re-claim the Rights of Man, with a voice which man cannot resist.”—The Rights of Man, in this passage, are the Rights of Man as they are stated in Paine’s works; for this society has expressly declared Paine’s works to be the foundation of all their proceedings. They have considered themselves as proceeding to establish the Rights of Man, as taught by Thomas Paine.—You must recollect passages to this effect, in several instances.—And, therefore, when they say, “will re-claim the Rights of Man, with a voice which man cannot resist,” they must be taken to mean the Rights of Man, in the full extent of the doctrine laid down in Paine’s book.

Gentlemen, I may add to this a remark, by the way, that it is a little extraordinary, considering how much the Constitutional Society has been involved in this case, and how important it would have been for the prisoner at the bar, to have brought some members of that society to have explained this transaction,—all the transactions, indeed, of that society, and particularly this Address; that not one member of the Constitutional Society is brought as a witness on this trial, except that poor dancing master, who is a member of both societies, and who seemed incapable of understanding any thing that passed. The same thing occurs, to a great degree, with respect to the London Corresponding Society. Not one witness whom they have brought, was a person capable, from the description he gave of himself, of accounting, in any manner whatever, for the Address of the London Corresponding Society.



Gentlemen, you remember the manner in which these two Addresses were passed in these societies. The letter which was sent by Hardy, first, and the debate that passed between them, whether there should be a joint, or a separate address? This was not a thing taken up in a hurry, but a thing considered, and much debated upon; one in one form, and the other in another. If any evidence, upon this subject, could possibly have been given, which could have been advantageous to the prisoner at the bar, it would certainly have been produced. In truth, both these addresses hold out, in pretty strong terms, a wish for an alliance and friendship with another country; that country certainly was not, at the time when these addresses were presented, in any adverse situation to this; but still, with respect to this country, in such a situation as made it a matter deserving some degree of caution, at least, or such as one should imagine would induce persons, thinking of presenting such addresses, to reflect a little upon it, before they did it.

How are these addresses received? One of the persons who were sent over with that of the Constitutional Society (how the London Corresponding Society's Address got over, we have not been able to show) was Mr. Joel Barlow, the gentleman who had written the "Advice to the Privileged Orders," in which he has completely stated what his ideas were, upon the subject of government, who had recently written an Address to the French Convention, with respect to the defects in their constitution of 1791, pointing out a principal defect in that constitution to be the existence of a king and several other things, which, he conceived, ought to be removed, to render the government more complete, upon the principles of the Rights of Man. The other person was Mr. Frost, who, I shall likewise observe to you, is not called as a witness, on behalf of the prisoner. He was a person who had made himself a little obnoxious, and who afterwards became the object of a prosecution. When this address was presented to the National Assembly, in France, the president of the French Assembly perfectly understood the matter. You will recollect, that there was likewise an address pronounced by the gentlemen who presented this address. Mr. Barlow and Mr. Frost were admitted to the bar, and thus addressed the Assembly: "Citizens of France, We are deputed from the Society for Constitutional Information, in London, to present to you their congratulations on the triumphs of Liberty.—This society had laboured long in the cause, with little prospect of success, previous to the commencement of your revolution." What is this but a declaration, that this society had, before the French revolution, been employing itself exactly upon the same principles as those upon which the French revolution was effected? "Conceive, then,

their exultation of gratitude, when, by the astonishing efforts of your nation, they behold the reign of reason acquiring an extension and solidity, which promise to reward the labours of all good men, by securing the happiness of their fellow creatures." Now, if this society had made this Address to the National Assembly, which finished when they had formed the constitution of 1791, it might have admitted, in some degree, of a different construction; but they never addressed that assembly, which formed the constitution of 1791. Why? Because the assembly, which formed the constitution of 1791, had not brought the revolution to the point of perfection. That was the reason they never addressed that assembly. On the contrary, till the revolution of the 10th of August took place, they had no idea of entering into this sort of correspondence with the French. They then make these Addresses to the French Convention, at the same time declaring, that, before this revolution, the society had employed itself on the same important object.—"Innumerable societies, of a similar nature, are now forming in every part of England, Scotland, and Ireland; they excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of reform. After the example which France has given, the science of revolutions will be rendered easy." Now, how was this revolution effected in France? By an assembly of the people; lawfully assembled under the authority of the king, but taking upon themselves of their own authority, to declare themselves a convention of the people. These are the means by which this revolution was effected; from that moment the late king of France was deposed; from that moment the late revolution began; and from that point it proceeded to its present situation. "After the example given by France, the science of revolutions will be rendered easy, and the progress of reason will be rapid. It would not be strange, if, in a period far short of what we should venture to predict, addresses of felicitation should cross the seas to a National Convention in England." Now, what is the meaning of a National Convention in England? Is this to be understood of a meeting of people, for the purpose of petitioning parliament for a reform of parliament? What can it mean but a convention, assuming all the powers of government, precisely as the National Convention of France, at that time, did? Is it possible to conceive, that any other construction can fairly be put upon those words? And have they brought one single man of this society, for the purpose of showing, that such is not the construction which ought to be put upon these words?

What is the answer of the president of the National Assembly? He has no sort of doubt of the intention and meaning of those persons; for he immediately calls them, "Generous Republicans." He could not have a stronger



tion of their principles, otherwise than as republican principles. When men addressed them in that style, they could not have an idea, that they were friends to the House of Commons, to the old peers, or to the new ones. The answer of the French president is:—"Generous Republicans, your appearance in this place will form an epoch in the history of mankind. History will consecrate the day, when, from a nation, long regarded as a rival, and in the name of a great number of your fellow citizens, you appeared in the midst of the representatives of the people of France." There is another passage, which, indeed, is a previous passage, which I particularly meant to have read:—"The shades of Pym, of Hampden, and of Sidney, are hovering over your heads, and the moment cannot be distant when the people of France will offer their congratulations to a National Convention in England." Why, gentlemen, the president of the French National Convention seems not to have the slightest doubt of the meaning of the address. He had not a conception, but that the persons who sent it, were disposed to establish, and desirous of establishing, in our country, a republican government; and that they had actually taken the means for that purpose. He says, that the moment could not be far distant when the people of France would offer their congratulations to a national convention in England. Is it possible to explain these transactions in any other sense than that which I have submitted to you? If it be, why has not some person or other appeared, as a witness, to have given what he conceives to be the true sense and meaning of the society, as you will recollect that a great deal of evidence has been introduced into this cause, for the purpose of giving constructions of the same sort? That makes it a very strong case; for when persons are called to give constructions to words of one description, and there are none called to give a construction to words of another description, or to words used in one case, and not to words used in another, it must, at least, be taken, that, in that instance in which they do not attempt to give, by other means, a construction to words, the words are open to that construction which the words themselves fairly import. These words can import nothing else than a declaration of a complete design formed, of establishing, in this country, a republican government; of bringing about a national convention; to which national convention, as an assembly, having in itself the executive and legislative power of the government, the national assembly of France might send these congratulations.

Gentlemen, it shows also, that the Convention, by their decrees of the 19th of November, and of the 13th of December, 1792, had adopted that sort of defence, which had been suggested to them,—“the giving liberty to Europe,”—as a mode of defence of their own liberty; and that they had declared, in the

name of the French nation, that they would afford military assistance to all people who wished to recover their liberty, within which description they most certainly had considered the British nation; because the London Corresponding Society, and the Society for Constitutional Information, had expressly asserted that the British nation were slaves. The French had, by these decrees, declared that they would not permit a reformation in the House of Commons, if it was in their power to prevent it; they had, in effect, declared, they would compel the people of this country, at the request of the London Corresponding Society, and the Society for Constitutional Information, to accept a government, formed upon the principles of the sovereignty of the people; and that, if the people of this country should refuse to accept of Liberty and Equality, being desirous to preserve their prince, and their privileged casts, that they would treat them as enemies.

Lord Chief Justice Eyre.—Mr. Solicitor-General, if you have finished this head on the Addresses to the National Convention of France, I think we had better adjourn; as it will be impossible for any human powers to sustain it, if we do not; and I think we should lose as much time to-morrow morning, as we should gain to-night.

Adjourned (it now being twenty-five minutes past twelve o'clock, on Wednesday morning), to eight o'clock.

Session, House in the Old Bailey. Tuesday, November the 4th, 1794.

PRESENT,

Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Buller, Mr. Justice Grose, and others, his majesty's justices, &c.

Thomas Hardy set to the bar.

Mr. Solicitor General.—Gentlemen of the jury;—When I had the honour of addressing you last night, I stated to you the general idea I had of the persons who were engaged in the transactions which have been brought in evidence before you, how far in those transactions (though not specifically and precisely) how far I conceived the prisoner was generally implicated; what was his character in those transactions, and what were the characters of those who were the agents in them; professing to consider, and to believe, that the vast majority of the persons engaged were not of that description of persons to whom the highly criminal intent imputed to the prisoner, ought to be imputed. I also stated to you what I conceived to be clearly the law upon the subject; hoping that, under the direction of my lords upon the bench, you will be of opinion that what I have stated as the law, is unquestionably the law of the land, derived



known to us now for a period of between four and five hundred years. Having proceeded then to state to you what appeared to be, from the evidence, as far as I went through it, the views, objects, and intentions of the persons concerned in these transactions, I had arrived at that period when the societies addressed the National Convention of France, and I had insisted considerably at large upon that transaction. I had insisted upon it, because it appeared to me to be a transaction which showed their views, their intentions, and their objects so plainly, so clearly, and so irrefragably, that I thought it impossible, in any part of the case, more strongly to impress upon your minds what those views, what those intentions, and what those objects were, and how they meant finally to accomplish those views, intentions and objects, namely, by assembling a National Convention.

I think, gentlemen, if you advert simply and only to those two Addresses; to that introduction to one of them when it was presented to the National Convention by Mr. Barlow and Mr. Frost, and to the answer which was given by the president of the National Convention—an answer in which no fraud or disguise was necessary to be used, and in which, on the contrary, the plain truth was most likely to appear—you can have no doubt in your own minds that the views, the objects, and the intentions of the prisoner at the bar, and of all those who were so far concerned with him as to have a complete connexion with that transaction, were nothing less than the destruction of the government of this country, by means of an assembly of the people, and to establish a representative government in the room of that government under which this country has so long flourished, in spite of all the abuses that belong to it. Abuses will belong to every government, perhaps abominable abuses belong to this government—I will not dissemble that there may be such; and as far as in my power, I should think it my duty to bring them forth whenever it should be necessary to do so;—for whatever situation a man may stand in in the country, he has an interest infinitely dearer than that situation.

Gentlemen, having stated to you what appeared to me to be a reasonable conclusion from the transaction with France, which I have mentioned, I will notice to you the observations which naturally occur from the conduct of those who were concerned in it: and I must here observe, that as it has been extremely difficult in the course of this long trial, to mark with certainty all the papers that have been produced, I may by possibility, but I am sure it will be unintentionally, mention to you some papers which may not have been actually produced. If I should do so, I should be much obliged to the counsel for the prisoner if they can correct me. If not, I wish my friends to do so.

I was going to state to you a letter from

the society at Stockport to the prisoner, dated the 3rd of November, 1792. Gentlemen, you will recollect that with respect to all the letters that have been produced, except, I think, one, not a single observation has been made by the counsel for the prisoner. That one is a letter from Norwich, which I shall notice to you presently. In this letter of the 3rd of November, 1792, the secretary of the society at Stockport, says, "I am directed by the Friends of Universal Peace and the Rights of Man," which very title I think, if you advert to it, plainly shows what the intention and object of these parties were; for you will recollect (the thought occurs to me at the moment) that the idea which had been conceived by those persons, was an enthusiasm unquestionably, but an enthusiasm dangerous in the highest degree;—the idea which they had conceived was, that by the establishment of the Rights of Man, universal peace would be established throughout the world. When, therefore, persons assume the appellation of the Friends of Universal Peace and the Rights of Man, they plainly declare that they have not in view any reform in the government of this country, as now established, because it is, according to their declaration, inconsistent not only with their conception of the Rights of Man, but with their conception of the procuring universal peace. Their idea of the means of procuring universal peace was, that by establishing a representative government throughout the world, the interests of the people would be so immediately considered by the government of every country, that war would cease, and universal peace would be established throughout the universe, and all the world would be, in effect, one nation. You will recollect that that has appeared in a variety of instances in the papers which have been produced to you. That enthusiasm they certainly had, and an enthusiasm as dangerous to government as any that ever existed; as dangerous as the enthusiasm of the millenarians, or Fifth Monarchy-men, who in the last century occasioned some disturbance, not very violent, indeed, in this country, under an impression upon their minds that Christ was to come to establish his own government upon earth, and that there was to be universal peace and good-will among men; what they called the kingdom of the saints. Under that impression they made an insurrection in the reign of Charles the second, which was suppressed after the death of a few people.\* There had been an insurrection of the same nature under the government of Cromwell, which also was soon suppressed; but the persons concerned in these transactions, to the very last persisted in their enthusiasm, and some of those executed in the reign of Charles 2nd, protested in their last moments, that if they had been deceived, they

\* See the case of John James, in this Collection, Vol. 6, p. 67.



had been deceived by heaven. When the minds of men are capable of being worked up to such blasphemous expressions, it is not possible to say to what length they may not go. Their sincerely entertaining such ideas, does not at all lessen the danger of them; does not at all lessen the necessity for the government of the country to take the means of repressing them, and punishing the delinquents in the severest manner. If men should take it into their heads that the community of goods is part of the christian religion, and should upon that ground take the goods of their neighbours, they must be punished as robbers, because it is impossible to preserve the peace of society by any other means.

Gentlemen, I have digressed in consequence of what occurred to me from the title which these people at Stockport chose to assume. The letter proceeds—"I am directed by the Friends of Universal Peace and the Rights of Man, to inform you, that we received two letters from you; the first, dated September 21st, requesting us to concert with you in transmitting to the French National Convention an address signed by every member."—It then proceeds to that which is not very material, except that it proves that this society in London were not content simply with addressing the French Convention themselves, but attempted to prevail upon all the other societies to do the same thing, which they considered as assisting the cause to a very great degree; and, in a letter from the prisoner himself, in the course of the transaction—I forget to whom it was directed, but it is a letter in which he mentions the subscription to the French—that, in his opinion, a number of signatures was infinitely better than any sum of money they could think of subscribing.

The letter proceeds—"with respect to the substance of this letter, we believe that the cause of the French is that of every individual person in Europe, that is not fattening on plunder, or who, through ignorance, obstinacy and inattention, sit unconcerned, and will not be persuaded to consider, although inevitable ruin should be the awful consequence."—Here you see, gentlemen, that this society at Stockport declare most clearly what they considered to be the object of such an address to the French; that they considered the cause of the French as their own cause, and likewise that of every individual person in Europe, not fattening on plunder.—"We therefore think it highly necessary to add our friendly aid and assistance, in order to stimulate the oppressed friends of freedom in France, against all the despots in Europe (who are combined against the just and equal rights of man), by assuring them that we view their signal exertions; and wonderful victories, with admiration; together with,"—mark this, gentlemen—"together with the extinction of treacherous royalty, and the restoring to every individual, his equal, indubitable rights, as fellow

men and free citizens; and that our hearts are united with theirs, as in one common cause, considering, as in a great measure, their victory our emancipation, together with their own."

Now, what was that victory?—The glorious victory of the 10th of August.—Gentlemen, has not this society at Stockport declared its views in the most complete and direct terms?—"The extinction of treacherous royalty" is here not pointed out ambiguously; not pointed out by words which will admit of a different construction, but by words direct and plain; by words which require no comment, to which no answer could possibly be given, and to which, therefore, my learned friends did not attempt to give any answer.—Gentlemen, their silence upon that subject is conviction.—If they could have got rid of the force and effect of this letter, they would have done so.—You cannot conceive that it was through any want of ability—that it was through any want of industry; for I am sure, when you heard, more especially, what fell from my learned friend who spoke last, you must acknowledge, that (although not possessing, perhaps, all the ornaments of eloquence which distinguish some men, and yet possessing them to a very considerable degree) as a judicious, as a forcible, and as a really able and convincing advocate, he has not his superior.

Gentlemen, observe the manner in which this letter proceeds—"Yes, should it ever be the case that our ministry should be so perfidious, as contrary to their pledged faith of neutrality, to join the execrable band of despots against the cause of freedom, we will stand forward, even to the hazarding our lives, by using every justifiable means to counteract their machinations, and give to the friends of freedom all the encouragement and support which we severally, unsupported, can afford."

Gentlemen, is not that a clear and plain declaration—is not that saying, without a doubt, that considering the cause of the French as their own cause—considering the victories of the French as their own victories; considering the emancipation of the French as their own emancipation, they were eager themselves to proceed to the extinction of what they call treacherous royalty and so to restore to every individual his equal and indubitable rights, as free men and free citizens; and that they would do this to the hazarding of their lives:—It seems to me, that it is impossible to conceive a more complete comment upon those addresses to the National Convention, than that which is contained in this letter.—It seems impossible, when we advert to the contents of this letter to have a doubt what were the objects, the views and intentions of those persons.

But, gentlemen, what is the letter from Norwich, which my learned friends did condescend to observe upon—I suppose, unless the impression that it was necessary for them



to take notice of something, and without any very clear view, I should apprehend, in the selection which they have made of it; unless, perhaps, they found, that, in the course of the evidence, there was very considerable allusion to it, and therefore they thought it could not possibly escape notice.—That letter is dated November the 11th, 1792.—The letter from Stockport was the 3d. of November.—This letter from Norwich, you will recollect, was made the subject even of debate in the meetings of the societies.

It states, "We, the Society for Political Information at Norwich, are desirous of holding, and strenuously supporting, the noble sentiments, which you" (the London Corresponding Society) "so lately and friendly dispersed among us; and, as we so much admire your well-adapted plan for a reformation in the state, permit us, with the utmost deference to your worthy society, to participate with you in all your great national correspondence, which your very name promises to maintain; and in consequence thereof, it is humbly desired by the society which I have the happiness to represent, to incorporate three members with your worthy fraternity; in doing which, I shall here inform you of their names and residence:"—then the three persons are mentioned.—"Our principal design in doing this, is, that we may have an opportunity of knowing more exactly, what may be thought the most eligible steps to be taken in carrying on this great business of our associated brethren, and to have an opportunity to ask such sort of questions as may be thought very reasonable among the brethren, especially when we think that publications are covered with a sort of obscurity in them, as the Sheffield people's declaration, which seems determined to support the duke of Richmond's plan only."

Now there, gentlemen, is a society which perceives a sort of obscurity in the declarations of the Sheffield society, and states in what it conceives that obscurity to consist—"especially when we think that publications are covered with a sort of obscurity in them, as the Sheffield people's declaration, which seems determined to support the duke of Richmond's plan only."

Gentlemen, you will recollect that the plan of the duke of Richmond was a plan which, however I may think it wild and extravagant, was a plan which had no other object whatever than that of reforming the House of Commons in this country, by making all persons who were of a certain age, and not liable to certain objections, capable of giving their votes for the election of members of that House, dividing the whole country into districts for that purpose, and allotting, I think, about 2,600 votes to the election of every member, and making the members about 500:—So that it had not, in any degree whatever, in view, the giving what is called the right of equal, active citizenship? that is the right of every man to share in the government of the

VOL. XXIV.

country; but expressly confining in his letters, and in all his declarations upon the subject, his idea of reform, to giving to every man the right of choosing a person by whom the laws by which he was to be governed, were to be made—a distinction very clear and very plain, but not very easily to be found in that declaration of the Sheffield people.—The Norwich Society, therefore, thought that there was a sort of obscurity in the declaration of the Sheffield people; in consequence of which, they began to apprehend that this Sheffield society did not mean to go the length which they intended. They say, that, from this declaration of the Sheffield people, they begin to apprehend that the Sheffield people seemed determined to support the duke of Richmond's plan only.—The letter adds—"But, since we find, in a printed letter received from them in a book, that they mean to abide by some moderate reform, as may hereafter be brought forward by the Friends of the People"—You will recollect, in the interval, the Society of the Friends of the People was established, which professed to have in view only a moderate reform; and which, likewise, if you may judge from the evidence that has been given at the bar by some of the members of that society, never conceived even the duke of Richmond's plan to come within the description of a moderate reform, but always thought that plan wild and extravagant. The letter adds—"which method is uncertain to us."—Here you find that the Friends of the People, and the Society for Constitutional Information, do not exactly agree; and you will recollect that the Friends of the People, and the Society for Constitutional Information, so very little agreed, that the Friends of the People had declared that they would have nothing more to do with the Society for Constitutional Information, because they saw clearly, that, in the transactions in which the Society for Constitutional Information were engaging, they had not in view a reform of the Commons House of Parliament, but had in view, as the letter of the Friends of the People states, the accomplishment of what is termed "all Mr. Paine's plans for public benefit;" including therefore, necessarily, the extinction of treacherous royalty, the extinction of aristocracy, and the establishment of perfect representation.

The letter proceeds, after observing that the Friends of the people and the Society for Constitutional Information did not agree—"We would be glad to know the reason; it seems to me as though the difference was this: the Friends of the People mean only a partial reform, because they leave out the words expressing the duke of Richmond's plan, and talk only of a reform; while the Manchester people seem to intimate, by addressing Mr. Paine, as though they were intent upon republican principles only."—We are accused of pressing hard upon the prisoner for addressing Paine.—Did not this

have in view, was establishing the duke's plan — "Whether the generality of the societies mean to rest satisfied with the duke's plan only;" that is, whether you struggle for more, or will be contented with that; for that must be the meaning of the words—"or whether it is their private design to rip up monarchy by the roots, and plant democracy in its stead."

Gentlemen, when we attend to this letter, it is impossible not to perceive that this Norwich Society was floating in a degree of uncertainty with respect to the views of the other societies, was disposed, perhaps, to be content with the duke of Richmond's plan only, to rest satisfied with it, but at the same time to obtain whatever it could beyond it. That this letter was written for the purpose for which it was supposed by the London Corresponding Society to have been written, for the purpose of knowing what were the true and real sentiments of this London Corresponding Society.

Now, gentlemen, if the London Corresponding Society had intended to hold sacred the House of Lords, and had no object in view but establishing a new constitution of the monarchy of the country, to hold sacred the House of Commons, by universal suffrage and annual parliaments, would they have hesitated in answering this letter? would they, as described in Lynam's evidence (and by the way I would observe that Lynam's evidence throughout is capable of being contradicted by hundreds and hundreds of persons, if it be not true, and there is not one person brought to contradict one single word of it), would they have deliberated in the manner in which he describes them to have deliberated upon

citizens put in its place. On been made upon the word citizenably we are all citizens of and when the word citizen is a particular allusion, it certainly in any degree improper; but comment which they themselves upon the word citizen, in the committee of constitution? The between citizen and subject ancient appellation given to free states—*subject* can only, be applied to a member of a government has been instituted conquest, or by the prevalence faction." Thus they have could will recollect, in all their past the most gross falshood—the constitution was a government foreign conquest; meaning, thinks proper to assert most constitution and government was the result of the Norman whereas, in truth, all the alterations conquest introduced, was principally in the aristocratical partition, and those must recollect any thing of the history of the Saxon laws and institutions foundation of our government that part of it which consists of justice, which is the of the liberty of the subject gentlemen, the word "citizen" different word when used by it would be indifferent used when used by persons who distinguish between citizen and subject, that no persons are to be called



Corresponding Society; the London Corresponding Society having never before heard of your society, wish to have some further information concerning it, as to its origin, its principles, and the number of its members. Such an account in your next letter will give them great satisfaction." Here, gentlemen, they are writing to a society of whom they profess not before to have heard; of whom, therefore, they ought certainly to have been particularly cautious, because they could not possibly know any thing of that which they here inquire after, the principles of its members.

The letter proceeds—"They do not thoroughly comprehend how it would be possible to incorporate with our society, three of your members residing in Norwich, inasmuch as it would be impossible to communicate to them at that distance all our correspondence, and they could not attend our committees, where the business is transacted. If it is information you want, they will very readily answer any question you may put to them. As to the object they have in view, they refer you to their addresses." I shall take notice of these addresses presently, of which my learned friend reminds me that the counsel for the prisoner have taken no notice whatever; not one single observation has been made upon those addresses, though those addresses are here expressly referred to, as containing the objects the society had in view. "As to the objects they have in view, they refer you to their addresses; you will therein see they mean to disseminate political knowledge, and thereby engage the judicious part of the nation to demand a restoration of their rights in annual parliaments. The members of those parliaments, owing their election to the unbought and unbiassed suffrage of every citizen in possession of his reason, and not incapacitated by crimes, they consider the obtaining such parliaments to be the groundwork of every necessary reform. To this, therefore, they steadily adhere, and turn themselves neither to the right, nor to the left, to follow any other plan whatever. The rules and orders of their society being so plain and easy, that if they can get a majority of the nation to act as they do, the proposed reform will effect itself. They look upon the trifling differences that may have arisen between the several societies to be of very little consequence, and think they will subside without any ways injuring the cause." Those trifling differences consisted, as stated to them by the Norwich Society, in the question, whether the societies meant to rest satisfied with the duke of Richmond's plan only; or, as the Friends of the People proposed, still less violent measures; or whether it was their private design to rip up monarchy by the roots, and place democracy in its stead. These are the *trifling* differences; and I observe that this word *trifling* is put in the place of the word *little*. It, therefore, was not a word that was not considered.

They proceed, gentlemen, to say, "they think it a matter of small importance whatever name you choose to adopt; they advise you to follow their plan, and divide yourselves into small societies, each of which to choose a delegate; the delegates when met to form the committee, and transact the business of the society; afterwards let each delegate report to his division the business so done, let him admit fresh members, communicate fresh intelligence, promote and encourage political discussion, or read to you such books as may convey the instruction your weaker members stand in need of." Weak brethren, you will recollect is a term that was very much in use at one time; it meant a person that was not risen to that height of enthusiasm which was necessary for what was then called the good cause—"but above all," and then the word "*Gentlemen*," is struck out—"but above all be careful to preserve peace and good order among you; let no dispute be carried to excess." And here come the words which show the meaning of the whole of this letter—The question put to them was, whether it was their private design to rip up monarchy by the roots, and place democracy in its stead; see what answer they give to that. Instead of expressing their indignation at such an idea: instead of saying, how could you imagine that such was our intention: how could you conceive that we had ever thought of destroying that which is so essential to the established constitution of this country, which is indeed the very essence of its government; the essence of the government of this country being that it is a monarchy; a limited monarchy; the great use of that monarchy being that it reduces action to a single point, it suppresses ambition, it contains every thing within a just prerogative, and it gives us this boast, that we never need fear a Robespierre, or any dictator, because we have a king; because we have a person at the head of all, to whose situation no person can aspire, but whose powers are so limited by known and bounded prerogatives, that he cannot pass beyond them without exciting the jealousy of all?

Gentlemen, the answer is very curious; it is—"Let no dispute be carried to excess; leave monarchy, democracy, and even religion entirely aside; never dispute on these topics." What! never dispute on the topics of monarchy and democracy! on the propriety of establishing the one or the other as the government of a country, when persons were considering what ought to be the reform to be created in the government of the country! "Let your endeavours go to increase the number of those who wish for a full and equal representation of the people, and leave to a parliament so chosen to form plans for remedying the existing abuses. Should they then not answer your expectations, at the year's end, you may choose others in their stead."



Now, Gentlemen, this letter which chooses to leave monarchy and democracy entirely alone, in effect states a plan of clear and pure democracy; for it says—"let your endeavours go to increase the number of those who wish for a full and equal representation of the people, and leave to a parliament so chosen"—that is an *entire parliament*, so chosen by a full and equal representation of the people—an elective senate—for it can mean nothing else—"to form plans for remedying the existing abuses. Should they then not answer your expectations, at the year's end you may choose others in their stead."—This is not too strong a comment which I have made upon the words, "those who wish for a full and equal representation of the people," and "leave to a parliament so chosen;" because if you will look at the address of the London Corresponding Society, of the 6th of August 1792, they speak in clear, plain, and unequivocal language of a parliament so chosen, as that which is to accomplish all their purposes. When they referred therefore in this letter to their addresses—when in this letter they inserted this passage, the same idea pressed upon their minds—namely, that by a full and equal representation of the people, they meant a parliament chosen as they there state, they meant a parliament wholly elective, excluding a House of Lords, and you will observe, that in this address of the 6th of August 1792, they describe it accordingly as the people's parliament. After taking notice of some things which I shall have occasion to observe upon presently, they say "numerous other reforms will undoubtedly take place even in the first session of a parliament so elected"—that is of the whole parliament so elected—"depending only upon their electors, undivided by faction, uncorrupted by the minister, and uninfluenced but by the public good."

Gentlemen, if their views went simply to the representation of the people, in the Commons House of Parliament, in what sense could they possibly have used these words? One paper reflects upon the other; it is clear and plain, that that only, which I have stated, could have been their intent. The letter proceeds, "To preserve peace and good order among you, let no dispute be carried to excess. Leave monarchy, democracy, and even religion entirely aside. Never dispute on these topics."

Gentlemen, you have been told that the prisoner never talked of the abolition of monarchy—never talked of the abolition of the peerage—of the establishment of democracy—but all his language was only of the duke of Richmond's plan.—Grant that it was so; what does it prove, but that he observed the lesson which he taught to others, and which perhaps this very letter might teach him the necessity of observing—"to leave monarchy, democracy, and even religion entirely aside, never to dispute on these topics, but to let his endeavours go only to increasing

the number of those who wished for a full and equal representation of the people," according to the sense in which he used these words; and "leaving to a parliament so constituted, to accomplish every object that he wished?"

The letter proceeds—"The committee offer you every assistance in their power, but request that your questions may relate chiefly to the methods of obtaining a reform in parliament." Still observing the same sort of conduct; do not put to us any such awkward questions, as whether we mean to be content with the duke of Richmond's plan only, or whether it is our private design to rip up monarchy by the roots, and place democracy in its stead—those are awkward questions; we don't like to write answers to such questions, but request your questions may relate chiefly to the methods of obtaining a reform in parliament. The letter concludes, "Like yourselves we are friends to peace, not to anarchy, and well wishers to the Rights of Man, yet not so sanguine in our expectations, as to imagine those rights will be restored by the spontaneous consent of those who have so long deprived mankind of them."

Gentlemen, you will observe that the letter from the Norwich Society, to which this letter is an answer, concludes—"I shall say no more at present, but remain a friend to peace, not to anarchy, a well wisher to the Rights of Man, when obtained by consent." The answer to it says, "The London Corresponding Society, are also friends to peace, not to anarchy, and well wishers to the Rights of Man, yet not so sanguine in their expectations, as to imagine those rights will be restored by the spontaneous consent of those who have so long deprived mankind of them." Thus they expressly declare that their views are not of the peaceable description of those of the Norwich Society; that they look to a degree, at least, of force; to taking the government of the country, from those to whom it has been intrusted, against their consent; and to taking it by such means as they themselves shall provide for the purpose.

Gentlemen, this, and numberless other letters of the same description, which I might observe upon, clearly and distinctly, as it seems to me, show the principles, the views, and the intentions of the persons who are engaged in this transaction; and the means by which they meant finally to accomplish those intentions—I think that we may fairly judge of the views and intentions, and even of the principles of a man, not only by what he himself declares, but by the principles of the company he keeps; by the principles of those whose character, and whose acts he approves—by the principles of his publications.—If I am told I am not to judge of men by their opinions but by their actions, I answer, I must frequently judge of the object of their actions by their opinions.

Suppose the Roman Catholics, in the reign



of king William, had set about a reform of religion, and for that purpose had attempted to assemble a convention, to act as a convention of the people, for the reform of religion. Could you have had a doubt what sort of a reform they meant to effect? Could you have had a doubt that they meant to establish Popery? Would a doubt of it have existed in the mind of any man? And one great reason why you could not have had a doubt of it, would be, the intolerant principles of Popery—though perhaps not of the Roman Catholic religion, for I know they make a great distinction, and a distinction in some degree well founded, between Papists and Roman Catholics; but the great majority of Roman Catholics in England, at least in former times, were Papists, if they are not so now.

Gentlemen, when we advert to the papers which have been laid before you, we must observe the same spirit of intolerance in these societies. The French at this moment are as intolerant in their political principles as the Papists ever were in their religious principles. They will not endure any other sort of government to exist in the world, but their own form of government, because they say that the government which the light of reason discovers to man, ought to prevail all over the world, and therefore they are in conscience bound to promote it. Thus they hold the same obligation upon conscience in matters of politics, as the Papists deemed binding upon conscience in matters of religion, and which men hold to be binding in matters of religion, because they think they ought to endeavour to prevail upon other men to take those means for their final happiness, which they themselves think the right means. This is a natural impression upon the mind of man; but applying that principle to government is perfectly new, and dangerous to the highest degree; as it tends to the unsettling of every state whatever, because no two persons will agree upon the question, which is the most proper form of government? No two persons perhaps ever perfectly agreed upon the subject—and if persons lay down certain principles, and act upon the persuasion, that those principles are so clearly the result of the light of reason, that they ought to be established throughout the world, and that it is highly meritorious to establish them throughout the world, they act upon a principle of intolerance which is just as great, and just as dangerous as that of the Papists.

If therefore men, who in the years 1793, and 1794, professed to consider no government as lawful, but that which is established on what they call the indefeasible Rights of Man, as taught by the French, by Paine, and by Barlow; and who professed to admire every thing done in France—the extermination of treacherous royalty, and all hereditary distinction, and the confiscation of property; if such men show a desire to fraternize with persons of the same disposition; if such men

proceed to declare their intention to reform the government of Great Britain, and take steps for that purpose; and especially if the steps they take are, endeavouring to assemble a convention, which should act in the character of a convention of the people, can any thing but the destruction of the British government be their end? Is it possible to imagine, that they had any other object? For if they should once have it in their power to effect any reform, can they, upon their own principles stop short of that reform, which they declare can alone constitute a lawful government? It is not in the nature of things gentlemen. If men once get the power to make a reform, and lay it down as a principle that the only just rule in forming a government, is establishing the indefeasible and inprescriptible Rights of Man, with all their consequences, the necessary result is, that the moment they have the power in their hands, they will do the whole. It is impossible to doubt it.

But it is not simply opinions, which the prisoner, and those who were combined with him have declared. They are not simply opinions; they are resolutions—resolutions to act upon opinions. The societies, by their addresses to the French Convention, have declared, not only their *opinion* that the government of this country ought to be republican—not only their *wish* to make the government of this country republican—but a *resolution* to take measures to effect it. They *resolve* to make the government of this country republican—and having so done, they in effect declare, that they have entered into a complete conspiracy against the government of the country. For when men entertain opinions; when these opinions are followed by a wish to carry them into effect, and a resolution to attempt to accomplish that wish, they form a conspiracy to do what they so wish to be done. I do not know what is a conspiracy, if that is not one. And these men have declared, not only that such are their opinions, that such is their wish, that such is their resolution, but they have declared how they mean to accomplish that resolution; namely, by means of a convention of the people; and to establish within this country, that sort of government which would enable the French National Convention to address a National Convention in England, not as a constituent assembly, simply, but as the governing power of this country.

Gentlemen, this has been the construction which has been put upon acts combined with opinions in other cases. What was the case of Crohagan, which was mentioned by one of my learned friends? A man declared his opinion that the king ought to be killed; he declared his wish to effect it; he declared his resolution to effect it, if he could come at the king. This he declared in Spain; and having done so, he came to England. What was the interpretation which a jury put upon all this?



That he came to England for the purpose of effecting that resolution which he had previously made; namely, a resolution to kill the king if he could come at him; and I never heard the propriety of that decision of the jury, in any degree reprobated; on the contrary, it is always stated as an illustration of a principle. But if he had declared, not only, that he had formed the resolution to kill the king, but that he intended to do it by a particular instrument, and if he afterwards had provided that very instrument, how strongly would the providing that instrument have declared his purpose, and especially if the instrument was of a particular construction, and such as is not ordinarily used? You would say, immediately, there could not be a possibility of doubt of his purpose.

Now let us see how this Corresponding Society, and those who leagued with them—I mean always the leading members—proceeded to carry into execution, that purpose which it seems to me they had clearly and expressly demonstrated in these addresses to the National Convention of France, and in the addresses of the London Corresponding Society, to the people of England, which I shall presently mention, and in the letters which I have observed upon.

Gentlemen, this is necessarily a deduction of some length—but why is it so? because in the nature of the thing, a resolution of this kind could not be carried into effect in a moment. The only means by which it could be effected was, by raising up a strong party in this country to assist the conspirators in operating the completion of their intent. The Revolution which has taken place in France, proceeded from very small beginnings, to the height at which it has arrived. If we trace it from its source, we shall find so much similarity between what has happened there, and the nature of the attempt made in this country, so far as they have gone, that I think we shall perceive that the difference in the events has arisen from difference in circumstances. The ancient government of France had become so odious to all ranks of the people, that the opinion of the people, by which alone a government can be supported, failing all at once, the whole fabric fell together, almost without a struggle; and it was obvious to every one, that the meeting of the states-general, in the year 1789, must produce a total change in the government of the country for this plain reason, that the opinions of a vast majority of the people were changed, with respect to the propriety of their existing government; and whenever that shall be the case in any country, the government of that country cannot stand. The government of Great Britain, on the contrary, has long been the object of affection. We are in the habit of considering, that it has produced, during a long course of years, great public good. We view it with all its faults, with all its imperfections; but in the result, wishing, as all of

us may honestly and probably do wish, to give it as much of perfection as we can; and though we are sorry to see many of the abuses which prevail in it, yet we view it with a great degree of attachment, and of reverence.

We may be told, perhaps, gentlemen, and so we have been told by writers upon the subject, that all this is prejudice—prejudice! Gentlemen! What are the opinions that we form upon the greatest number of subjects, but such as may be deemed prejudices? Is the mind of any man capable of reflecting, in all its extent, upon every thing which comes before its view. We are obliged, necessarily, to take a great deal from the instruction of others; and that alone makes the important difference between men of education, and men of no education. For education is, to a great degree, the instilling what, in this point of view, may be considered as prejudices into the minds of men. It is giving them the benefit of the opinions of others; teaching them, in early life, to rest satisfied with the deductions which have brought the minds of other men to certain points: to take them as data, as principles, upon which they will proceed to reason, and to act, in their future life. Men of great leisure, who have the opportunity of contemplating subjects with more minuteness, who are not engaged in business which any way distracts their attention, may speculate upon various subjects, which the generality of men, in the busy world, cannot possibly find leisure to contemplate, whatever their situation in life may be. And a great majority of the people in every country, let the nature of its government be what it may, must necessarily be so much employed in obtaining the ordinary comforts of life, that it is impossible for them to employ their minds upon many subjects, with any very good effect. This sort of prejudice it is that influences the minds of the generality of the people, with respect to the government of this country.—It possesses their good opinion.—Why? Because they have been taught to think it ought to possess their good opinion; because it has been handed down to them by their forefathers; that it has, for a great course of years, produced a greater portion of happiness to the people of the country, than has been generally enjoyed under the government of other countries.—Why it has done so, very few men have the leisure, very few men have the ability, to inquire. Perhaps no man is capable of viewing it, in all its extent, and all its consequences; seeing all the minute parts of it, how they depend one upon the other, and how the moving or altering of any particular part may effect, in its consequences, the whole. But we know that the result of the whole, combined, in principle and practice, is, to a certain extent, good, and therefore we are attached to it. This, gentlemen, is unquestionably a degree of prejudice; but it is that sort of prejudice by which every government is supported, and by which



alone a government can be supported—the prejudice of public opinion—and the first attempt to destroy a government must necessarily be, to destroy that prejudice of public opinion in its favour, which is its support. The first operation of those who conspired the destruction of the ancient government of France, was unquestionably to destroy it in the public opinion; and that was completely effected before the meeting of the states-general, in 1789. Having done this, they had removed every thing which supported the government, and it necessarily fell.

Gentlemen, those who have imitated the proceedings of the French, in this country;—and imitators, I call them, not because they make use of such a word as convention;—imitators, I call them, not because they talk of organizing, and appoint committees, for various purposes, such as are made use of in the French Assembly, but because they have proceeded directly upon the plan which has succeeded in France, in overturning the established government; they have proceeded upon the plan, which not only destroyed the government which existed previous to the year 1789, but which has also destroyed that constitution established in 1791, which was the most popular constitution, in its form, that ever was established in any country, with a king at the head, and indeed more popular than any constitution that ever was established in any country whatever. For the king of the French, as he was called, under that constitution, had, in effect, very little authority, except that most extravagant revenues unquestionably were assigned him, and some particular prerogatives were given him, which probably were intended, by those who framed the constitution, to enable him to assume, again, a certain degree of power, which they might conceive to be necessary for keeping the whole together, and preventing the mass from tumbling to pieces.

Gentlemen, Mr. Paine was fully aware of the effect of all this. He tells you, in his great affection for this country, that, during the American war, he had it in contemplation, having transferred all his love for his native country to America, and declared himself a citizen of the world;—an expression which tends to destroy all those attachments which unite us together;—a man who becomes what he calls a citizen of the world, becomes, in a certain degree, an enemy to his own country, acting contrary to all those natural attachments which unite us to the society in which we have been educated, and which have hitherto been conceived as the best affections of man, and which the principles of these men lead directly to destroy.—Mr. Paine says, he had conceived the idea of coming into this country, during the American war, keeping quiet till he could publish a book, which he thought would have had the effect of overturning the government of this country. This he mentions in a note, which shows

†

what was, in his mind, the consequence of attacking the public opinion upon the government of a country. He opens the introduction to the Second Part of the Rights of Man, with observing, that, what Archimedes said of the mechanical powers may be applied to reason and liberty: “Had we a place to stand upon, we might raise the world.” He conceived, that the propagation of his principles was that standing place, by means of which he hoped to raise the world.

Gentlemen, you will observe, that an impression was made on the minds of all these men, that what had passed in France, in the course of the years 1789, 1790, and 1791, was a prelude only to that which afterwards would follow, long before the 10th of August, 1792; and that the 10th of August, 1792, was the glorious victory which completed their triumph. They considered the world as in a course of revolutions; and, in the phrase of Mr. Paine, that revolutions were the order of the day. The impression upon the minds of these men, that the world was in a course of revolutions, and that revolutions were the order of the day, appears throughout almost all their papers. You will find, upon examination, that they considered a revolution as inevitable; as that to which the nation must finally come. They have been likewise taught that the danger to which alone this sort of revolutionary principle was liable (for so Paine teaches them), was, the revolution being attempted, before the principles upon which revolutions ought to proceed, and the advantages to result from them, were sufficiently seen and understood. Therefore, the object of the works of Mr. Paine, Mr. Barlow, and other publications of that description, was, to show to the people of this country, the principles upon which revolutions ought to proceed, and the advantages to result from them, in order that these being sufficiently seen and understood, the rest might follow.

Gentlemen, for this purpose a variety of pamphlets have been published, which have been observed upon to you. These pamphlets have clearly and unquestionably for their object, to destroy the opinion which the people generally have of the excellence of the British constitution, in all its parts, but more especially in those two parts which the counsel for the prisoner have said, it was the object of the prisoner to retain. For these books consider a House of Commons as a thing tolerable only in comparison with a House of Lords; and a monarchy they consider as utterly destructive of all principle. That there is something like principle in a House of Commons, but nothing like it in the other two.

Gentlemen, if the persons who were engaged in this did not mean to destroy this government, why should they endeavour to destroy the public opinion with respect to it? If they meant to reform it, why should they declare that no constitution existed? Now

not so well governed as they ought to be, shall never want attentive and favourable hearers; for they know the manifold defects to which every kind of regimen is subject; but the secret lets and difficulties, which, in all public proceedings, are innumerable and inevitable, they have not ordinarily the judgment to consider."—In this view, all these pamphlets were written; holding out, in the most glaring colours, every thing that was an abuse; never once telling the people that they ought to consider what were the secret lets and difficulties, which, in all public proceedings, are innumerable and inevitable, and which, therefore, ought to make all persons extremely cautious with respect even to the abuses of government, because, without very minutely attending to it, they may not be aware of those secret lets and difficulties which occasioned those very abuses, and which, perhaps, are absolutely inevitable, from the nature of things; from the constitutions of men; their habits, prejudices, passions, and a variety of other circumstances; all of which must be considered, when people consider, not only the constitution of the government, but the administration of that government.

But, for the purpose of a systematic attack upon the government of the country, it was necessary that there should be some leader, some head, to direct the whole.—Gentlemen, what has been the wonderful effect of the societies which have been established in France; I mean the Jacobin club, with its forty-four thousand affiliated popular societies, which, for a great length of time, really governed France, and kept it in continual agitation?—The persons who were employed in this country, seem to me to have conceived the idea of

began to use such language, themselves in such a manner find, almost all the original club deserted it; and at last collect from the proceedings which were read to you, about seventeen persons, appear to whole of the members who remain frequently only five, six, or sent; and the business was with a great degree of inactivity were seldom more than six present; and if we advert to sent upon the important shall find that a very few indeed directed that club.—One copy was Mr. Horne Tooke.

You will easily perceive that as this, was not that sort of could be made to operate as because a society of this description an open society, it could not, of its constitution, be made a But people looked to the character Society for Constitutional Improvement long had in the country; for the general did not know that their members had declined attending.—Mr. Sheridan said, I think, attended at the society for eight.—As that, however, was a title really known to the world, the the Constitutional Society, secretary, had with the world the of the names of all those persons been members of the society, sary to keep up the character of this society, but at the same another society, which should

this London Corresponding Society was admirably calculated for the effect which it was intended to have. Its name imports that the object of it was, to correspond with all other societies of the like description; and an important object of this society was, to unite, by means of that correspondence, all the country societies with this society in London, and with the Society for Constitutional Information; so that they might move in one bond of union, in the manner recommended by that letter which I have mentioned to you.

This society was extremely popular in its constitution. Any body might be admitted a member of it, of any description. The sums collected from the members were very small. They were formed into divisions; and when the members amounted to a certain number, they were to be divided again, for the purpose of diffusing their meetings more generally over the whole town.—They were to have from each division a delegate; the delegates formed a committee of delegates; and that committee of delegates was to be guided by the committee of correspondence; for, as their business was principally correspondence the Committee of Correspondence necessarily had the management of almost every thing; and that committee of correspondence finally became the Committee of Secrecy, which I before observed upon.

This society have, in three publications which they have given to the world, and which the gentlemen on the other side have not in any degree observed upon, declared their principles and objects, so far as they thought it proper and safe to declare them. You will recollect the manner in which they expressed themselves in the answer to the Norwich letter; and I must beg you will always have in view the answer to that Norwich letter. It is a key to all their language. It directs the Norwich Societies to leave monarchy and democracy, and all disputes upon that subject alone; but to look forward to one distinct object—the obtaining a full and equal representation of the people in parliament, leaving to a parliament so chosen, to carry into execution the rest of their views, if they should not be able immediately to carry them into execution. Their intention, therefore, was, to keep as much as possible out of their publications, any thing about monarchy or democracy; but, at the same time, to express themselves in such a manner as should convey completely, to those who chose to understand them, all that they meant.

The first address of the London Corresponding Society was dated the 2nd of April, 1792, but which the evidence has clearly shown you, was concerted between the prisoner and some other persons, at a much earlier period. It begins thus—"Assured that man, individual man, may justly claim liberty as his birthright we naturally conclude, that, as a member of society, it becomes his indispensable duty to preserve inviolate that liberty, for the benefit

VOL. XXIV.

of his fellow citizens, and of his and their posterity.—For, as in associating he gave up certain of his rights in order to secure the possession of the remainder, and; voluntarily yielded up only as much as was necessary for the general good, so he may not barter away the liberties of his posterity, nor desert the common cause, by tamely and supinely suffering to be purloined from the people, of whom he makes a part, *their natural and unalienable rights of resistance to oppression, and of sharing in the government of their country*; without the full and uninterrupted exercise of which rights, no man can, with truth, call himself or his country free."

You will recollect, that, throughout every one of their papers, they have uniformly declared, that they considered the existing government of this country as an usurpation, and as an oppression.—When, therefore, they declare their right of resistance to oppression, they declare their right of resistance to the existing government, which they have declared to be an oppression; and all their proceedings are in direct conformity to that declaration. For the proceedings of the Scotch convention, and the resolutions of the twentieth of January, 1794, at the Globe-tavern, go upon this principle—the natural and unalienable right of resistance to oppression.—So that they have only to call any act on the part of government oppression, and then, declaring their natural and unalienable right of resistance to oppression, they declare their unalienable right to resist that particular act.—They also declare their unalienable right of sharing in the *government* of their country—making use of the word *government*, as will be found in all their publications, instead of the expression in the duke of Richmond's letter—"sharing in the choice of those persons who are to make the laws by which they are to be governed."—The change is extremely remarkable, and is, in fact, a key to the whole.

Then they resolve expressly, "That every individual has a right to share in the government of that society of which he is a member."—And their fourth resolution is, "That the people of Great Britain are not effectually represented in parliament," not confining their resolution to the House of Commons; and though certainly it is capable of that construction, yet that is not the natural construction of the words.—Their seventh resolution is—"That a fair, equal, and impartial representation can never take place till all partial privileges are abolished;"—which seems a clear declaration of their meaning.—For their first resolution is, "That every individual has a right to share in the *government* of that society of which he is a member, unless incapacitated;" which share in the government they could not possibly have, unless they had a voice at least in the election of the persons who are to administer that government.—They fourthly resolve



be administered; that every person has a right to exercise these rights, that no majority, however great, can justly deprive the minority of any part of these rights, and that, wherever it is attempted, the social bond is broken, and the minority have a right to resist."

I do not wonder that my learned friends did not make any observation upon this paper—it is impossible to make any effectual observation upon it, for the benefit of the prisoner, because the meaning is clear and plain, beyond the possibility of doubt. Here are persons declaring a principle so wild, that if it were to prevail, it would be impossible for any government to exist—it has generally been conceived, that it is a very strong thing to say that the *majority* have a right to alter the constitution of a government, at least without very strong necessity for it. A number of people are assembled in a country, whose whole habits, and connexions, lead them to wish to remain in that country, and they are assembled upon certain terms of association, which forms their constitution. Every individual has a sort of sacred right to the observance of the terms of that association; a right, at least as sacred as his right to the property which he possesses.—If it be his wish to continue to live under that constitution, it is injuring him as materially and as essentially to take away that constitution of government, as to take away his property. Undoubtedly cases of necessity may arise, in which that right must be invaded, as rights of property, and every other right must be invaded, in cases of necessity—even the right which every man has to his own life—you must remember the case which is commonly put, of two men being upon a plank in the sea, and the plank proves capable of supporting only one of them. It is said, that the stronger would be justified perhaps in the —\* I confess, gentlemen, I was overcome with the dreadful alternative to which that man must be reduced—it is commonly observed, that it would be justifiable for the stronger, in that situation, to push the weaker from the plank, for his own preservation.

But, gentlemen, if we feel so much when a man is reduced to such a dreadful situation, and feel that nothing but absolute necessity can justify the act which he does—what can justify men, who without a very strong necessity, shall attempt to disturb the established government of any country, in which any large proportion of the inhabitants wish to retain the government so established?—but what shall we say to men who carry the principle to this length—not content with denying that even a large majority of the country ought not to alter the established government of it, against the consent of the minority, without extreme necessity—but asserting that no majority, however great, can justly

deprive the minority, of any part of their civil rights; that whenever it is attempted, the social bond is broken, and the minority have a right to resist; and assuming at the same time, as one of those civil rights, the right of equality of voice in the making of laws, and in the choice of persons by whom those laws are to be administered?

Is not this a declaration, clear and plain, that they conceive they have an unquestionable right to resist any government which is not a *republican government*, founded upon their principles of universal representation; and that any other government is so unlawful that they are not only not bound to give it support, but that they have a right to resist it to the utmost of their power, and in any manner in which they think fit to resist it? this is a principle which teaches rebellion against every government not founded upon their plan, and yet I am told that men who hold such principles, who come to solemn resolutions upon them, are men who have a perfect reverence for the monarchy of this country, for the hereditary peerage, for every part of the government of the country, except the corrupt representation in the House of Commons.

Gentlemen, the address of this society of the 6th of August, 1792, proceeds exactly upon the same principles; and when you consider these addresses and resolutions in the report of the committee of constitution, I think you cannot have a doubt in your own minds that every thing which tends the other way in any part of their publications, is what the attorney-general represented it to be, a mere veil to cover their designs; but so thin, so thread-bare, and so tattered, that the naked limb is starting out every moment. This address of the 6th of August 1792, begins with those lines from Thomson which my learned friend read so well. Who will dispute any one principle which it contains? and yet, if passages are to be taken from books, and applied to such purposes, the best books may be perverted to the worst of purposes. No book has been more perverted to bad purposes than the bible.

This address of the Corresponding Society to the inhabitants of Great Britain, on the subject of a parliamentary reform, begins thus—"Uninfluenced by party pique, or selfish motives, no ways affrighted at the frowns of power—not in the least awed by the evidently hostile preparations of a much alarmed aristocracy."—Here conveying, for the first time, that idea which you afterwards see developed with so much success, and which was to end in arming their own party—you will observe the idea is here completely developed—"not in the least awed by the hostile preparations of a much alarmed aristocracy—we, the London Corresponding Society, united with a view of obtaining a thorough parliamentary reform, anxiously demand your serious and most collected attention, to the present vitiated state

\* Here Mr. Solicitor General was interrupted by a flow of tears.

who wish for a full and equal representation of the people, and leave to a *parliament so chosen*, to form plans for remedying the existing abuses." The letter, therefore, to the Norwich Society, commenting on this Address, shows you what they meant. It shows you, that they meant, in *their words*, to leave Monarchy and Democracy alone; but to hold out that which they thought, under the cover of language, they might safely hold out; and, at the same time, keeping clearly in view the destruction of Monarchy, and the establishment of Democracy, of which you cannot possibly have a shadow of doubt, when you consider the terms of that letter, the terms of this address, and the particular passages which I have read from the report of the committee of constitution.

Gentlemen, there are two things contained in this address, which struck me in a very extraordinary manner. One is, the description of what they conceived such a parliament (*an elected parliament*) as they describe, would do, when assembled. They say, that such a parliament, "Finding that a most extraordinary waste of public money had taken place under the different pretences of places, pensions, contracts, armaments, subsidies, secret service money, &c. our honest and annual parliament would, after narrowly scrutinizing the same, retrench every sum needlessly or wickedly laid out." You will observe, this passage refers to a waste of public money, which *had* taken place, and says, this *elected parliament* would retrench every sum needlessly or wickedly laid out—not that it would prevent, in future, improper expenses. Gentlemen, I leave to you to make the comment upon that passage.

The other passage which particularly struck me, is also a passage which speaks for itself, and which I take to be exactly of the same description as that which I last mentioned.—"The people's parliament finding, that, under various pretences, grants of common land had been obtained by sundry persons, no ways to the benefit of the community, but very much to the distress of the poor, the same would be soon restored to the public, and the robbed peasant again enabled annually to supply his distressed family with an increased quantity of bread, out of the profit arising from the liberty regained, of grazing a cow, two or three sheep, or a brood of geese thereon."

What can that possibly mean, but that all those commons, which, under the general consent of persons interested, under the authority of acts of parliament, or in any other manner, have been enclosed, improved, and divided, should, under pretence of restoring the rights of the poor, be taken from the present proprietors, and divided amongst those poor, for the purpose of engaging them in the party? If it be possible to give any other construction to that paragraph, I wish you to do it; but my mind is incapable of giving it any other construction, and I think there cannot

be an idea more destructive to private property. For under the same pretence, the whole property in land of every person in the country, might be destroyed. I cannot form a calculation of the immense quantity of land, which, within even the last twenty years, was common land, and is now become separate and enclosed, upon the faith of which inclosures, persons have laid out large sums of money in improvements and buildings; and, generally speaking, those who had rights of common, had their rights compensated in some way or other. Whatever injustice may have been, in particular instances (supposing any such to have been), if once an attempt is made to unsettle rights gained in such a manner, and so established, all right of property is necessarily in danger. If you once attack the principles on which rights of property have been established, you must go on till you will destroy all right of property, and do exactly what has been done in France. For there, under the pretence of the rights of the public, an immense quantity of property, which had been granted, from a vast distance of time, by the crown, to individuals—as half the estates in this country are, perhaps, held under grants from the crown, although, perhaps, those grants cannot be actually traced—was taken from the possessors, and given to the public. The first French National Assembly, that Constituting Assembly which acted in many cases very properly, was guilty of the gross injustice of taking into the hands of the public, large quantities of land, from great numbers of persons, which had been purchased and acquired in various ways, because they said, the lands had been originally improperly granted.—Here the expression is, "*improper grants of land*" which may easily be applied to lands formerly granted by the crown, and indeed to the title of every person's estate. This lure is held out, unquestionably, for the purpose of gaining the poorer sort of people.

These are two striking passages in this address.—(One referring to a subject, upon which I make no comment, but leave it to you to make a comment.—Upon the other I have ventured to make a comment.—It seems to me, that, by it, the title to all property is put in hazard, and I will call to your attention a part of the evidence which applies particularly to the subject. I allude to that part of Lynam's evidence, with respect to the divisions in Spitalfields. I only wish you to bear that in mind now,—I mean particularly to notice it hereafter,—to bear in mind the relation which that evidence has to this passage. You will recollect, the Spitalfields divisions were considered as likely to produce as many members as all the then existing members of the society, and they were to be supported by assistance from the other divisions, because they were considered as persons of that description to whom the small subscriptions that were to be made, of a penny a week, other members of this society, might

convenient; and then judge, whether that which I have suggested, was not a part of the general plan.

Gentlemen, you will also recollect, that, if what Lynam stated upon that subject is untrue, there could have been no difficulty whatever in contradicting him; and, therefore, whatever reflections may be thrown upon him, or upon spies, or any other persons, you must believe that to be true; because, when a person is accused of having concurred in a transaction, by evidence, which is capable of being contradicted by a great number of persons, and not one of them is called to contradict that evidence, you must give credit necessarily to the accusation; and its not being contradicted, when it might be so easily contradicted, if false, gives it a confirmation beyond all doubt.

This address states, that, "Numerous other reforms would undoubtedly take place, even in the first session of a parliament, so elected, dependent only on their electors, the people, untorn therefore by faction, undivided by party, uncorrupted by ministry, and uninfluenced but by the public good."—A passage which, as I before observed, is utterly inconsistent with the existence of a House of Peers; referring to a parliament, which is described as wholly elected in the manner mentioned in this paper, and as dependent only on their electors, the people, the very object of the House of Peers being to have a middle body in the constitution of the government, which should not be so elected, but being of a different description, should form a barrier between each of the two other powers, the King and the Commons, and keep the balance even between both, as one or other may preponderate.

It is a remarkable thing in the history of the constitution of this country, that the time when the liberties of the country were most

Gentlemen, I have now, at a length to which I certainly did not intend to go, commented upon the establishment of the London Corresponding Society, upon its addresses, and upon its constitution; and it seems to me, that this alone would be very sufficient to show, that the object and the intention, that the *formed resolution* (for I think we do it injustice when we call it intention, or opinion, or conception), that the *formed resolution* of these societies, that is, of the leading members of them, was, to establish, in this country, a democratical form of government; a form of government more democratical than that which ever existed in any other country—unless we conceive that it exists now in France—utterly incompatible with, and therefore necessarily destroying, the monarchical part of our government; and therefore, also, a clear demonstration of a conspiracy to depose the king; and any act, taken in pursuance of that conspiracy, is unquestionably an act of high treason.

Gentlemen, in the course of these transactions, there was one very artful proceeding; which was, I believe, observed upon by the attorney-general. The society for Constitutional Information met every Friday; the delegates of the Corresponding Society met every Thursday. The advantage was, the Society for Constitutional Information were to hold themselves up as persons of respectable situations; all violent resolutions were therefore to begin, either in the country societies, or in Scotland, or they were to begin in the London Corresponding Society.—The committee of delegates of the London Corresponding Society, came to resolutions on the Thursday, which, on the Friday, they generally communicated to the Society for Constitutional Information. And here is



Patriot; and there, speaking of the establishment of several societies, it says—"We beg leave also to throw in our mite of commendation, of the laudable spirit which you have evinced in your intention to address the National Convention of France, and hope sincerely, that your example will be followed by all the societies in the two kingdoms; Ireland having already set the example"—then it says "we hope your society will also give them" (a particular society, which is named, the Stockport Society) "your sanction, advice, and support; as it will be in vain for the friends of reform, to contend with the tremendous host of enemies they have to encounter,"—clearly showing, that they considered that a very large proportion indeed (and some of the other letters expressly stating, that a vast majority) of the people, were against them. It goes on—"We clearly foresee, that Scotland will soon take the lead of this country"—(I wish you, gentlemen, to observe this) "and conceive it will be necessary to take the greatest care, that an universal communication should be constantly kept up, between the several societies, however distant, and that all should determine to act upon the same principle, and move together, as near as may be in regular and active unison. *'Twas by this method, France became so thoroughly united, and we ought never to lose sight of it.'*"

Now, can any government subsist, which has within its bosom a number of societies acting as a corporate body upon those principles? What, gentlemen, is a government, and a state, but a corporation?—It is a number of men, assembled by certain constitutions of union, by which those who are of themselves individuals, are enabled to act as one body. When therefore a society is established, and that society puts itself under particular regulations, that society, to a certain extent, though not bound in the same manner as a corporation created by the lawful government, is in effect a corporation; and when a number of societies unite themselves in the manner here proposed, they are a union of distinct corporations. Corporations created by the constitution and government of the country, acting under the authority of that constitution, are subordinate states. The East India Company, for instance, is a corporation, by means of which our possessions in the East Indies, to a certain degree, are governed. That is a corporation, acting in subordination to the great corporation of this country; which, lord Coke says, is composed of King, Lords, and Commons, of which the King is the head. He calls it, expressly, the great corporation of this country. Then here, upon the principle of incorporation, are a great number of societies, united together, for the purpose of moving together in regular active unison; for the purpose of forming themselves into one state, which should act together, upon one principle; a sort of combination of states,

like the United States of America, which still have one regular constitution, which regulates the whole government. A country may bear a corporation or state within it, which is in avowed subordination to it, such as the different corporations in this kingdom; because it has a power to regulate their actions by the proceedings of the courts of justice. If they exceed their power in any degree, it calls them in question, and they may, if they go to certain lengths, forfeit the privileges granted to them. Such corporations are completely within the power of the government, and are capable of existing consistently with the safety of it. But such corporations as these, cannot exist in any government, with safety to that government. It is, *imperium in imperio*, which is inconsistent with any government. This was the very principle upon which the National Assembly in France, in 1791, passed a decree against the Jacobin clubs, which unfortunately for that country, was never put in execution.

We object to these societies, "you are acting as a corporation—you are taking upon yourselves the firmness, union, and manner of acting, which belongs to a corporate body, which makes you therefore a state within a state, and renders the existence of your society, totally incompatible with public peace."

The celebrated speech made by one of the most distinguished members of the French constituent assembly, Mons. D'André, a man of considerable ability, states this in so clear and plain a light, that it must bring conviction to the mind of every man, that the government of a country cannot exist, if there subsist within it, such a set of associated and affiliated societies, acting as a corporate body, in opposition to that government, in the manner in which these societies proposed to do."

In all these transactions, the prisoner unquestionably has borne a very distinguished part; and you will find that his letters, if you take the trouble of referring to them, certainly show his privity with every part of the transaction. A privity which must necessarily also be inferred from his situation of secretary, with every part of the transactions.

Gentlemen, you recollect a letter of the prisoner, to Mr. Vaughan, of the 9th of April, 1792, in which he particularly states, in what manner he conceived the minds of the people were to be acted upon; the manner in which they were to be allured and deluded; and advises Mr. Vaughan to collect some choice flowers from several publications which he refers to. You will recollect, also, that the gentleman to whom that letter was addressed, although present in court, has not been called to explain any of the transactions which have taken place. That letter was very early in the transactions stated to you, and shows most clearly, and plainly, that the prisoner was at the very foundation, and root of every thing—~~He was not a~~

son who was deluded and led away—He was one whose whole heart was in the cause, and who was contriving all the delusions which are imputed to the persons who were concerned in these transactions.

These things having been done, and the people having been by such means considerably set against the constitution established in the country, the leaders of these societies began to consider what measures they should take. There had been for some time in Scotland, a number of societies, which had been acting upon the same principles, and holding a correspondence with the London Corresponding Society; and these societies in Scotland had formed a meeting, called a Convention of Delegates, which had met early in the year 1793, and had then adjourned, I think to November 1793. These people, when they originally met, appear to have had exactly the views which were stated by my friend who last addressed you, as the views of the London Societies.—They did not assume to be a Convention of the People; they described themselves as a meeting of delegates of the different societies associated for the purpose of obtaining a parliamentary reform—they met—they did their business—they dispersed and adjourned to meet again in November.

During this interval, you will observe that a very private and particular correspondence took place. There is a letter from Skirving to Hardy, of the 25th of May, 1793.—I shall have occasion to observe something more upon the subject; but I would now observe, that this letter speaks of the writer's disposition to unite in one assembly of commissioners, from all the countries in the world for the purpose of reform.—This letter led to a private correspondence between Mr. Hardy, the prisoner, and Mr. Skirving, who had been secretary to that meeting of delegates in Scotland, which had never thought of assuming the appellation or character of "Convention of the People;"—an appellation and character which, for the purposes stated by my learned friend, were totally unnecessary.

On the 5th of October, 1793, Mr. Hardy writes a letter to Mr. Skirving, in which he speaks of the trials of Muir and Palmer, who had been prosecuted for seditious conduct, and then says, "The General Convention which you mention, appears to Mr. Margat, to whom alone I have communicated your letter," (the letter to which this refers, seems to have been dated the 2nd of October; but it has not been found) "appears to Mr. Margat and myself to be a very excellent measure; and, as such, I could wish you, without delay, to communicate it officially to our society, without any ways mentioning that you had written to me privately."—I mentioned this letter before.—I now state it for the purpose of introducing the sending delegates to the Scotch Convention.—"If, in your official letter, you should require us to

send a deputation to that meeting. I have no doubt but our society would, with pleasure, accept the invitation: and I am persuaded it would do much good. Our freedom, as you justly observe, depends entirely upon ourselves, and upon our availing ourselves of this opportunity, which, once lost, may not be so soon recovered."—And I observe upon this, because I think it tends to show, that, however unprepared they might be to carry the measures they had in view, into complete execution, they had a strong impression upon their minds, that, if they lost the opportunity, which to a certain degree they conceived they then had, they should not be able to recover it again; and that therefore it was necessary, at all events, to take some steps.

This letter of the 5th of October, 1793, having been written by Mr. Hardy, a letter came from Mr. Skirving to him, in an official way, desiring that those deputies might be sent.—This letter is communicated, not only to the London Corresponding Society, but to the Society for Constitutional Information; and in consequence of that communication, both these societies sent delegates to this Scotch Convention.—And, gentlemen, you will recollect, that, by the communication with Sheffield, Norwich, and other places, they were likewise induced to send delegates to the same convention.

These are the instructions given by the London Corresponding Society, which were signed by the prisoner:—"The articles of instruction given to citizen Joseph Gerrald, delegate from the London Corresponding Society to the ensuing convention in Edinburgh, for the purpose of obtaining a thorough parliamentary reform.

"First—He shall on no account depart from the original object and principles of this Society: namely, the obtaining annual parliaments, and universal suffrage, by *rational and lawful means*."—*Rational and lawful* are words which are capable of almost any construction.—For, after it had been stated in the report of their committee of constitution, that the minority had a right to resist the majority, for the purpose of asserting what they call, their indefeasible rights, among which they claim the right of equal, active citizenship; *rational and lawful means* are any means which would be, according to their idea of reason, rational, and, according to their idea of law, lawful. They declare it to be *lawful* for the minority to resist the majority, if the effect of the tyranny, as they call it, exercised by the majority, were to deprive them of their indefeasible civil rights; namely, a share in the government of their country, both legislative and executive.

The other instructions are, "Secondly—He is directed to support the opinion, that representatives in parliament ought to be paid by their constituents."

"Thirdly—That the election of sheriffs ought to be restored to the people."

"Fourthly—That juries ought to be chosen by lot."

"Fifthly—That active means ought to be used, to make every man acquainted with the rights and duties of a jurymen."

"Sixthly—That the liberty of the press must at all events be supported; and that the publication of political truths can never be criminal."

Now, gentlemen, you will observe that the four last of these have no connexion whatever with a parliamentary reform.—The second is only supporting the opinion, that representatives in parliament ought to be paid by their constituents—an opinion formerly adopted, and acted upon, in this country, but long since abandoned, from a principle of policy, which is obvious; and the adoption of that opinion by the first constituent assembly in France, led, perhaps, to all the mischief that followed.

When persons talk of rational and lawful means, you must of necessity understand them to use those words in the sense, and according to the construction which they themselves put upon the words. They say, that their delegate should on no account depart from the principles of the society; namely, the obtaining annual parliaments and universal suffrage, by rational and lawful means.—In the seventh instruction, they state what they conceive to be lawful means; namely, "That it is the duty of the people to resist any act of parliament repugnant to the original principles of the constitution, as would be every attempt to prohibit associations for the purpose of reform."—And therefore they considered, that any act of parliament, and consequently any authority whatever, however in the common estimation of mankind it might be deemed lawful, was to be resisted by them, if it tended to prevent the execution of their purpose; and that, therefore, any means taken towards such resistance, were means taken for the purpose of obtaining annual parliaments, and universal suffrage, by rational and lawful means.

It seems to me, therefore, that these articles of instruction, upon the very face of them, import a determination to resist the constituted power and authority of the country, if a resistance to this constituted power was necessary to carry into execution their purpose of obtaining annual parliaments, and universal suffrage, by rational and lawful means; and that they considered resistance to the power of the constituted authorities, as lawful means to effect that purpose.—And, if they considered resistance as lawful means, it necessarily also follows, that they considered attack as lawful means.—For, if resistance is lawful, an attack to supersede the necessity of resistance, is also lawful.—Upon what principle is attack in war lawful, but that resistance is justifiable? And attack is justifiable for the purpose of superseding the necessity of that resistance.—Therefore these instructions do

VOL XXIV.

most explicitly declare their resolution to maintain the object which they had in view, by what they call rational and lawful means; which they have sufficiently shown to be such acts as are in direct opposition to the constituted authority of the country, and, consequently, acts of rebellion.

Gentlemen, when this again is compared with the report of their committee of constitution; and when I have shown that their avowed principle is rebellion against every government which is not constituted in the manner in which they say a government ought to be constituted, it is impossible to give any other construction to these words, "rational and lawful means," than that which I have given; namely, such means as, by the exercise of their reason, unprejudiced, they were taught to believe were *lawful means*; among which they included the right of the minority to resist even a vast majority of the country, if that majority attempted to withhold from them those rights which they considered as indefeasible civil rights: namely, a right to *share in the whole of the government of their country*, as well executive as legislative.

Gentlemen, the instructions which are given to the delegates of the Society for Constitutional Information, are couched, unquestionably, in much more cautious language. They contain no such resolution with respect to resistance, as is contained in the resolutions of the London Corresponding Society.—At the same time you will recollect, what my learned friend near me now suggests to me, that all that was done in the Scotch Convention, in consequence of the instructions given to the delegates of the London Corresponding Society, was afterwards fully approved by the Society for Constitutional Information; and that one of the acts so done, was in direct conformity to those instructions (the seventh instruction) "That it is the duty of the people to resist any act of parliament repugnant to the original principles of the constitution, as would be every attempt to prohibit associations for the purpose of reform."

Gentlemen, you will recollect that one of the resolutions of this Scotch Convention went directly upon the foundation of that instruction; going, indeed, considerably beyond it; and when I am told that persons who send delegates, are to be considered as giving to those delegates no other authority than what they specifically gave them, I admit that to a certain degree, that is true; but then, the moment they know that these delegates go beyond their authority, they ought, unquestionably, at least, to disavow them.—But what has this Constitutional Society done? Instead of disavowing any proceedings of the British Convention, it has declared its approbation of them all; and the society has considered itself as bound to give the most effectual support to the persons who came to these resolutions.

Then what were the proceedings of this as-



Gentlemen this assembly of delegates of clubs, having proceeded in this manner, thought proper, not only to call itself a *Convention of the People*—a *British Convention of the People*, necessarily including the whole island—but—THE BRITISH CONVENTION, ONE AND INDIVISIBLE—and to date their transactions, the first year of the British Convention, One and Indivisible.—What could this be meant to express, but that they considered themselves as the whole people of Great Britain, united, by delegation, in one common cause, not to be separated—not to be divided, until they had completely and effectually carried into execution those purposes which the several delegates carried with them into this assembly?—What the purposes of Margarot and Gerrald were, we have had clearly before us upon evidence.—What was the purpose of Mr. Yorke, who, though a delegate from the Constitutional Society, did not actually go,—we may infer, from all that he did and said elsewhere.—Now, that the whole is disclosed, and all its complex parts are put together, it is clear that this very act was, in itself an act of High treason.—And I beg to say, that the Attorney-General, in his place in the House of Commons, on the question relative to the trials in Scotland, declared, that as far as he could then view it, seeing it imperfectly as he did, he was inclined strongly to think, that it ought to have been so construed. But an act may be an act of high treason, or an act of sedition, merely, according to the degree of evidence which may be produced upon the subject. Unless you can show, what was the object of the parties, you may not be able to prove it to be an act of high treason, although, in fact it was so.

What was the argument which Mr. Gibbs pressed so much upon you? He did not deny, that the acts of his client were extremely blameable; very seditious; but they do not, said he, amount to high treason. And why did he assert, that they did not amount to high treason? “Because the evidence, taken together, does not show that the prisoner had conceived, within his mind, the guilty purpose and intent of destroying the government of the country, deposing the king, and establishing a democratic government in its stead.”

In the prosecutions carried on in Scotland, against the members of the British Convention, Margarot, Gerrald, Skirving, and the rest, the full evidence was not possessed by those who prosecuted; they could not establish, by evidence, that degree of criminality in the minds of the parties, which is essentially necessary for the purpose of constituting the crime of high treason; and, therefore, no blame is upon that account imputable, as I contend, to the courts in Scotland, supposing the act to be high treason.

The courts there are accused of having been over rigorous in their sentences.—If that which has appeared in evidence here, had appeared to them, I think, according to the

evidence which would then have been before them, they must have considered the acts as amounting to high treason; and it would have been their duty to have taken care that the persons, guilty of those acts, should have been prosecuted accordingly. But from the evidence before them, the complete criminal intent did not appear, and therefore they proceeded, according to the law of Scotland, for the crime of sedition.

The question which was afterwards principally agitated, was, whether there existed, in the law of Scotland, a distinct crime, denominated by the law of Scotland, “Sedition,”\* which the law of England considers as a mere misdemeanor, of different degrees of heinousness, till it amounts to the crime of high treason. But if there did exist that distinction between treason and sedition, in the law of Scotland (and sedition, in the ancient law of England, seems to have been considered as a distinct crime, in very remote times), and if sedition in Scotland was capable of being punished as such, a very severe punishment must be the proper punishment for a crime which arose to that height, that the only question which could possibly be made upon it was, whether it did, or did not, amount to the heinous crime of high treason.

Gentlemen, the resolutions and proceedings of this society in Scotland are very extraordinary; they begin with declaring themselves *the British Convention*, and their several proceedings have been read to you, in which it appears that they corresponded with the prisoner at the bar, and with several other persons. It also appears that they adopted several of the most seditious proceedings which have been had in this country, and that they had reports made to them of the state of the societies in England, as well as in Scotland, the object of which was to justify their declaring themselves a convention of the people.

It appears in the proceedings of the 6th of November, 1793, that one of the Edinburgh delegates having moved that the London delegates should state the situation of their societies, citizen Margarot answered, “that the

---

\* I apprehend that this statement of the question is not strictly correct. The doctrines asserted by the counsel for the crown and sanctioned by the high court of judicature, in the cases of Maurice Margarot and the other members of the British Convention, respecting the crime of sedition, have been much canvassed and by many distinguished lawyers impugned; the true grounds on which the propriety of the decision of the court of judicature has been questioned, will be found in the ingenious and powerful arguments which were delivered by the very learned and able persons who disputed the relevancy of the indictment in the case of Joseph Gerrald. See the speeches of Mr. Gillies and Mr. Laing in this Collection, vol. 23, pp. 621. 669.

societies in London were very numerous, though sometimes fluctuating—in some parts of England whole towns are reformers; in Sheffield and environs there are fifty thousand,—though it has been shown to you that the society there never consisted of more than six hundred. “In Norwich there are thirty societies in one. If,” said Margarot, “we could get a convention of England and Scotland called, we might represent six or seven hundred thousand males, which is a majority of all the adults in the kingdom, and ministry would not dare to refuse us our rights.” It was in consequence of this representation that they thought fit to give themselves the title which I have stated to you.

Gentlemen, you will recollect that in their proceedings they went to the extent of making a new union between England and Scotland; an union which should perfectly remove all boundaries of distinction between the two kingdoms. Whether that would or would not be a wise thing, may certainly admit of a great deal of question; but there is a contract existing between the two countries upon the subject, and the persons assembled at this meeting, take upon themselves, as far as their authority goes, to break through that contract, assuming a power of a most extraordinary kind; not only sovereign power, but sovereign power tending to the destruction of a solemn league between the two nations, at one time separate, distinct, and independent sovereign powers.

They resolved to publish an address to the public, and a committee was appointed to consider the means, and to draw up the outlines of a plan of general union and co-operation between the two nations in their general pursuit of a thorough reform of parliament,

attended to them, when they were read, which you must be convinced, they had view an establishment, upon principles very different from those on which a meeting delegates of societies, for the purpose of obtaining a reform in parliament, ought to have been formed.

You likewise recollect the pains they took to enlighten the Highlanders of Scotland. It is impossible not to consider the terms they used for this purpose as an incitement directly, to the Highlanders to arm themselves. You recollect the circumstance of a picture of a Highlander, armed with his broad sword and target; and there are other circumstances of the same tendency, which are not now immediately and distinctly in my memory.

There is also this resolution:—“That it be recommended to the different societies throughout the country, to copy the Bill of Rights into their minute books, as the ground of their proceedings, in order to prevent proper constructions upon their conduct, and to friends to reform.” This recommendation seems to me to be precisely upon that principle of deception which I have before noticed. There could be no purpose whatever, for which this resolution was to be inserted in their minute books, but to deceive—to hold out a peaceable and quiet reformation, while they meant the reverse. If they had approved of the Bill of Rights, had it not been universally derided in the books of which they had testified the strongest approbation, in a work, in which it was called a bill of wrongs, and treated with the utmost disrespect and contempt? But it served extremely well for the purpose; not only to cover the proceedings of the different societies, but to mislead those societies, and to tell them that the Bill of Rights authorized the

see in court—I wish he was here—I mean, my learned friend who addressed you last, with great force, with great energy, and certainly with a considerable degree of ability—how he reconciles these resolutions, so left in blank upon the minutes, with the principle upon which he stated this convention to have acted.—He did not, indeed, distinctly state this convention to have acted upon it; he rather suggested the principle, and then endeavoured to slur the matter over, to pass it by, asserting, that, whatever might be imputed to this convention, it could not affect that which was to have been assembled, and the prisoner had nothing to do with it.

Gentlemen, you will recollect the solemnity with which the transactions relative to these resolutions were carried on; that, “After an excellent discussion of the question, pertinent remarks and amendments, the convention was resumed, and the whole, as amended, being read over, the members stood upon their feet, and passed the resolutions, unanimously, as follows.”—You will recollect, likewise, that this was preceded, in the course of the debate, by citizen Brown’s giving a history of the Habeas Corpus Act, and therefore appearing to take an important part in the discussion of the question, Mr. Matthew Campbell Brown, who was the delegate from Sheffield, and who has been stated as the Editor of the Patriot—There is a blank in the minutes, for these resolutions; and then the minutes import, that, “After the said resolution, agreed to, and solemnly approved of, as above, citizen Gerrald, in an energetic and animated speech, addressed the meeting, and expressed his happiness at the motion passed, and exposed the act of the Irish parliament, called a Convention Bill; and citizen Brown followed him, in a manly speech, and proved the influence of the executive government over the parliament;”—and then—Citizen Margaret read and proposed a motion:—“That a Secret Committee of three, with the secretary, be appointed to determine the place where such Convention of Emergency shall meet; that such place shall remain a secret with them, and with the secretary of this convention; and that each delegate shall, at the breaking up of the present session, be entrusted with a sealed letter, containing the name of the place of meeting; that this letter shall be delivered, unopened, to his constituents, the receipt of which shall be acknowledged by a letter to the secretary.—preserved in the same state, until the period shall arrive, at which it shall be deemed necessary for the delegates to set off.”

These resolutions, and a declaration accompanying them, for which a blank was left in the minutes, and which were not to be inserted till after the end of their proceedings, were in the following words: “Resolved, that the following declarations and resolutions be inserted at the end of our minutes:” “That this convention, considering the calamitous

consequences of any act of the legislature, which may tend to deprive the whole, or any part of the people, of their undoubted right to meet, either by themselves, or by delegation, to discuss any matter relative to their common interest, whether of a public or private nature, and holding the same to be totally inconsistent with the first principles and safety of society, and also subversive of our known and acknowledged Constitutional Liberties, do hereby declare, before God and the World;”—which, you recollect, is the solemn manner in which an oath is taken, in Scotland, by persons of a particular description—“that we shall follow the wholesome example of former times, by paying no regard to any act which shall militate against the constitution of our country, and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people, and annual election, until compelled to desist by superior force.”

Gentlemen, what is this but a declaration, that they would resist force by force; that they would resist, unquestionably, *inferior force*; and that it should be *superior force only*, that should compel them to desist:—“And we do resolve, that the first notice given for the introduction of a Convention Bill, or any bill of a similar tendency to that passed in Ireland, in the last session of their parliament, or any bill for the suspension of the Habeas Corpus Act.”—So that now they would have been in actual rebellion, as the bill for the suspension of the Habeas Corpus Act did pass;—“or the act for preventing wrongous imprisonment, and against undue delays in trials, in North Britain; or in case of an invasion, or the admission of any foreign troops whatsoever, into Great Britain or Ireland; all, or any of these calamitous circumstances, shall be a signal to the several delegates to repair to such place as the *Secret Committee* of this convention shall appoint.” Throughout all their proceedings you find a *Secret Committee*. There is no one of the proceedings of any of these societies which you have had before you, in which you have not found a *Secret Committee*; that is, a few persons, who keep secret from the rest all the important proceedings, and guide and direct the whole. The formation of a *Secret Committee* being, necessarily, the formation of a thing which they conceive would not bear the open light of day, and particularly would not bear the eye of the existing government of the country, bound to keep and support the peace of the country;—“and the first seven members shall have power to declare the sittings permanent, and twenty-one shall constitute a convention, and proceed to business.”

What is this but a declaration, that, if they were compelled by superior force, to discontinue their meetings at Edinburgh, where they were then sitting, they would not, therefore, cease to be a convention of the people, but that they would repair immediately to such



to the admission of foreign troops; a report having been very industriously circulated of an intention to bring over a great number of foreign troops into this country.

But they declare also, that this convention shall meet as a Convention of Emergency in another event; that is, in case of invasion. I am sure I recollect the letter having been read which informed Hardy of the secret resolutions, because I recollect that the words "in case of an invasion" are omitted in that letter. But Margarot states in that letter that the convention has done that which he does not think it safe to communicate by letter:—"The convention proceed with great spirit; we sit daily; and last week we came to a resolution which we fancy will give pleasure to every friend to reform. As the minutes are to be printed, we will at present only give you the heads of it; viz.—That should any attempt be made by government for the suspension of the Habeas Corpus bill, the introduction of a convention bill, or the landing of foreign troops in Great Britain or Ireland, the delegates are immediately to assemble in convention at a certain place (the appointment of which is left with a secret committee); that when seven delegates shall be thus assembled they shall declare themselves permanent, and when their number amounts to twenty-one they shall proceed to business. *Thus, you see, we are providing against what may happen.*" This is a letter written to Mr. Hardy himself. "*Thus you see, we are providing against what may happen.*" Then the letter proceeds to state—"Letters convey but very imperfectly, and with no great degree of safety, what we might wish to inform each other of." And in a subsequent letter of the 8th of December, 1793, you will find he says—"Not daring any longer to trust to the post, we send you all these papers in a parcel;" what papers these were does not appear. "You will be so good as to make us acquainted with their safe arrival. Gerald wishes to get to London as soon as possible; he will communicate that which cannot so fully be expressed by letter. You may consider this as a *private letter*; but you may read such parts of it as you think proper to any member of the society, especially where it may be productive of good."

Then here are resolutions come to which they are afraid to enter on the minutes of their proceedings; which they are afraid to communicate entire in their correspondence between each other; which they leave, therefore, to be communicated by word of mouth by one of the parties present: and even the very letter, thus cautiously written, is written to Mr. Hardy as a *private letter*, of which he might communicate such parts as he might think proper to any member of the society, leaving to him the selection of the matter, and the parts he might so communicate; perhaps, according to the degree of fervor in the public cause he might conceive a particu-

†

lar member to have, and the particular confidence he might have in the discretion of that member; and this is to be especially where it may be productive of good; showing most clearly by this that the prisoner was the active means by which the whole of this conspiracy was to be carried on; the person with whom Margarot (who was then acting as agent of the society at Edinburgh) was to correspond, in whose discretion he was wholly to confide, and who was to communicate to the other members such parts only of this correspondence—mutilated as it is, from the fear of danger that may attend a communication by letter—to communicate such parts of it only as he thought proper.

Gentlemen, I stated that it was my intention to advert to that part of the minutes which followed the blank where these resolutions ought to have been entered, if they had been entered according to the daily and the ordinary course of their proceedings. After stating the solemn manner in which these resolutions were passed—the very solemnity with which they were passed showing the importance which those persons attached to them, and the omission of the word *invasion* in the communication still more strongly showing the importance which they attached to that particular word—"Citizen Margarot read and proposed the following motion—"that a secret committee of three with the secretary be appointed to determine the place where such convention of emergency shall meet; that such place shall remain a secret with them and with the secretary of this convention; and that each delegate shall, at the breaking up of the present session, be entrusted with a sealed letter containing the name of the place of meeting—that this letter shall be delivered unopened to his constituents, the receipt of which shall be acknowledged by a letter to the secretary—preserved in the same state until the period shall arrive at which it shall be deemed necessary for the delegates to set off." So that the place of meeting of this convention was not only to be determined upon by a secret committee of three (a very small number), but they also resolved that it should remain secret with them and the secretary; and that at the breaking up of the then present session (if during the session it should be necessary to make use of this committee of emergency at a secret place) each member should carry with him, in a sealed letter, the name of the place of meeting; that this should be delivered unopened to his constituents; that the receipt should be acknowledged by a letter to the secretary; and that the sealed letter should remain in the same state till the period should arrive at which it should be deemed necessary for the delegates to set off. So it was not to be known to any one member of the society, except the secret committee and their secretary, where that place was to be.

Now, gentlemen, have such proceedings

parliament, praying that that reform in the election of representatives might be carried into execution which they pretended they had proposed upon the wild plan, as I venture to call it, of the duke of Richmond, or any other specific plan they might think proper to adopt; if the object of their meeting was any thing beyond that, it was impossible for him to justify it, though he should not admit it to receive all the attributes which we have given it.

The minutes of this day's sitting refer to a proceeding which, I think, distinctly had in view that which afterwards appears in other parts of the proceedings—the supporting a convention by force. It is idle to say that a convention of this kind could have any effect whatever unless supported by force; and therefore it is not necessary to show you that any proceedings had taken place for the purpose; for when it is of necessity that in order to carry the thing into execution it should be supported by force, it is not necessary to show you that proceedings had been had for the purpose of creating that force. If persons form a plan (such as was fabricated for the bishop of Rochester, and several persons of high rank) to bring in the Pretender—If that had been a real paper signed with the names of those persons who it was supposed had signed it (it turned out to be a wicked contrivance of two villanous men); but if it had been a real paper, it would have been an act of high treason, though they had procured no force. But the moment they put their hands to that paper, which demonstrated their intention to conspire to overturn the government of the country; demonstrating that intention

namely, simply and only  
ment.

They propose, also, to ap-  
of observation in London,  
observing what was done th  
upon that occasion? Mar  
there was no occasion for a  
nature in London, as there  
sand people in that city  
It was accordingly agreed,  
tee should request the Los  
correspondence to give th  
gence of what passed in par

Gentlemen, you will r  
committee so referred to, wa  
mittee of the London Corre  
which Secret Committee  
lution converted into a com  
tion for the British Convent  
pose of giving information  
which should pass in pa  
London, upon this subje  
shows the connexion and d  
very convention upon the  
ponding Society, in the han  
videlicet, the Secret Commit  
directed that Secret Commit  
that the whole was really, a  
operation of those societies  
that the proceedings at Ed  
proceedings of persons who  
as the puppets of those in L

You will recollect the ma  
Highlanders were to be  
representations to them of  
aggravated and false in th  
You will likewise recollect,  
the proceedings of this conv

1793, the tenth day's sitting, and the order of the day was moved upon it. Now this is a meeting which my learned friends would attempt to persuade you was solely for the purpose of petitioning parliament, and one of the first things they do is, to move the order of the day upon a motion for petitioning parliament.

You recollect, gentlemen, the manner in which they treated distinctions of rank in the case of lord Daer—in the use of the word *gentleman*—the insipidity of the term *gentleman*, and the propriety of the term *citizen*—and a thousand other circumstances, which show throughout the principles which the members of this convention meant to adopt, and to carry into effect as far as they could. You will recollect what Mr. Skirving said in the course of the proceedings. Upon a motion that was made he insisted “that it was proper on all occasions to take the opinion of the primary societies, and he considered the convention as only a committee of the people.” So that Mr. Skirving, in the very proceedings of this convention, was acting upon the grand principles of all those rights of man—that every form of government to be established among them was to be considered only as a committee of the people, and that the sense of the people was to be taken upon all occasions. Principles which the French national assemblies have constantly found it impossible to carry into execution; and you must particularly recollect that they refused to carry them into execution upon the most important subject which could come before them, namely, the death of their king. For when some of the leading members—some of the most enlightened—probably with a view of saving the king, wished to refer the consideration of that question to the primary assemblies in different parts of the country, it was negative, on the ground of the impossibility of carrying it into real and effectual execution; and because, if it could have been carried effectually into execution, it must have tended to destroy the Convention itself.

Gentlemen, you will recollect likewise, in the course of the debate which took place upon what the terms of the unprecedented infringement of the liberty of the press, and the arbitrary sentence of judge Wilson against Mr. Holt—Mr. Justice Wilson being a man whom all those who are of the same profession must remember with deep regret and concern, and must acknowledge that he was one of the worthiest and the most upright men that ever graced the bench—Gentlemen, in taking notice of these things, which they consider as abuses, Mr. Margatot observes—“It is unnecessary to attempt to lop off the branches while we are endeavouring to—” and there is a blank.—Endeavouring to what? How can you fill up that blank?—“It is unnecessary to attempt to lop off the branches while we are endeavouring to cut down the

VOL. XXIV.

tree.” You cannot fill up the blank in any other way.

Gentlemen, I might go through the whole of the minutes of the proceedings of this convention; there are several other passages which equally merit attention; and it is evident that throughout the whole of their proceedings they contemplated the idea of acting by force of their own authority, supported by the force of so many of the people at large as they could prevail upon to sustain their measures; that they looked to the attainment of their objects by those means; and probably also by the assistance of that foreign power which the two societies in London, the Constitutional Society, and the London Corresponding Society, had, in the latter end of the year 1792, clearly invoked—by means, probably, of the assistance of that power, for you cannot give any other interpretation to the words, “In the case of an invasion.” They clearly looked to the attainment of their ends either by their own force alone, or by that force assisted by such foreign force.

This convention being dispersed by the superior force of the constituted government, after that resistance which the members of the convention thought proper to give, and which necessarily was only a formal resistance, because they had not prepared measures for any more effectual resistance—what was done?—A meeting upon this was held, and a variety of proceedings took place, in London, all tending to assemble another convention, expressly declaring, that in consequence of the dispersion of the British Convention, they were determined to assemble another. For the proceedings had not arrived at that ripeness which could enable them to carry into execution, the plan of that convention of emergency, which they had suggested in the minutes of the convention in Scotland, because that could not have been completely carried into effect with respect to England, unless they had had a greater proportion of delegates from England, than they actually had. Finding that impracticable, they turned their minds to the assembling another British Convention in England, and they openly avowed their intention of assembling that convention in England.

Gentlemen, the first proceedings which seem to have been directly taken for that purpose were the resolutions of the Constitutional Society, on the 17th of January 1794; but previous to that time a letter was written by the prisoner, on the 10th of January, to Mr. Adams, the Secretary of the Constitutional Society, merely informing him of the anniversary dinner of the London Corresponding Society, intended on the 20th of January, 1794. I mention that circumstance, because it drew both the Societies together in the transactions of that day. There was no reason for giving the Constitutional Society any notice of that anniversary dinner, unless for the purpose of enabling them to attend it if they thought proper.



ceived a letter from citizen Margarot, at Edinburgh, with some of the Edinburgh Gazetteers," (you observe this is a day after the letter he wrote to Adams, informing him of the anniversary dinner, of the 20th of January) "where you will see that citizen Skirving is found guilty, and sentenced for fourteen years transportation to Botany Bay. Margarot's trial comes on next. He meets it with great firmness and resolution. I have no time to make comments on the proceedings; but I think our opponents are cutting their own throats as fast as they can. Now is the time for us to do something worthy of men." Why was it the time for them to do something worthy of men?—"The brave defenders of liberty, South of the English Channel, are performing wonders: driving their enemies before them, like chaff before the whirlwind."

What was in the mind of Mr. Hardy when he wrote that letter? What could be in his mind, but that persuasion which we see generally diffused throughout all their proceedings, that the success of the French republic, was intimately connected with the success of their own schemes; that they were all embarked in one common cause—that their hope and reliance was not upon a majority of the people of this country—for I think even the report of the committee of constitution shows, that they had no hope of obtaining that majority, but that they did hope they should obtain so large a party, that, with the success of the French republic, they should be able finally to accomplish their object—at least they thought that that was the time to strike. "Now is the time for us to do something worthy of men—the brave defenders of

prisoner had in his contention of the revenue of the subject which he thought proper to the person to whom he was not simply for the purpose to families, but as it would of the country, and therefore affect those persons whom his enemies, the constituents of the country. It is a trifling but trifling circumstances are the natural overflowing show the temper of that man he writes when he is under strait.

Gentlemen, I shall mention some resolutions of the Sociational Information, on the 1794, upon which, as I recollect has been made by the counsel, and which no men of the Sociational Society has been

"Resolved, that law is the subject of obedience, whenever it is an instrument of oppression."

"Resolved, that we regret the deepest satisfaction, in the infamous Jeffries, one of England, who at the execution, for the many in which he had passed, was a brave and injured people."

"Resolved, that those who have given us this example, deserve his fate."

Gentlemen, when they are considered with reference to the laws, what is the meaning of incitement to the people to see it has reference to those

persons in Scotland, was not only not blameable, but a conduct which entitled them to the approbation of all *wise* and the support of all *brave* men. The epithet, *brave*, is pretty striking. A peaceable and constitutional support of a man, does not require much bravery; but a support by force, may require bravery—when therefore the approbation of all *wise*, and the support of all *brave* men, is called for, one may easily guess what it is that the persons who enter into those resolutions mean. They add,

“Resolved, that we see with regret, but see without fear, that the period is fast approaching, when the liberties of Britons must depend, not upon reason, to which they have long appealed, nor on their powers of expressing it, but on their firm, and undaunted resolution to oppose tyranny, by the same means by which it is exercised.” What is that but an explicit declaration, that the time was fast approaching, when they conceived, that it would be necessary to exert force? Whether according to their ideas, force had become necessary or not, you cannot determine. It never can be an object of determination for a jury, or for any court of justice, whether the subjects of a government, are entitled to rise in rebellion against that government, in consequence of any conduct of that government. It is a question, which whenever it does arise, can be decided only by the sword. It never can come into discussion in a court of justice. Therefore, if the conduct of the government of the country has been ever so oppressive, a court of justice cannot permit itself to discuss, whether that occasion has arisen, which amounts to the dissolution of all government, and when therefore it can itself have no authority to act—This resolution follows.

“Resolved, that we approve of the conduct of the British Convention, who though assailed by force, have not been answered by argument, and who, unlike the members of a certain assembly, have no interest distinct from the common body of the people.” A resolution, which not only adopts all the proceedings of that convention, and all their conduct but particularly and distinctly adopts that part of their conduct, in which they declared themselves a *Convention of the People*, and declared that they meant by that declaration, that they were representatives of the common body of the people.

The last resolution is, “That a copy of the above resolutions be transmitted to citizen William Skirving, secretary to the *British Convention*, who is now imprisoned, under colour of law, in the Tolbooth of Edinburgh.”

Gentlemen, this led to the proceedings of the 20th of January, 1794, at the Globe tavern, and these proceedings are extremely strong—you recollect that these proceedings appear to have been wholly a concerted business; that they were nothing like the acts of the persons who met there, but that they were proceedings previously determined upon. Mr. Thel-

wall, seems to have had a principal hand in preparing the account of the proceedings, which was printed and distributed; and he delivered it to Davidson the printer, to be printed on the 18th of January—Gentlemen, this account of the proceedings, begins thus, “At a general meeting of the London Corresponding Society held at the Globe tavern, in the Strand, on Monday, the 20th day of January, 1794, citizen John Martin in the chair—The following address to the people of Great Britain, and Ireland, was read and agreed to.” So that you see, gentlemen, they are determined to proceed with a sort of caution, which had not been observed in the proceedings of the Convention at Edinburgh, in preparing the minds of the people by a previous address for the meeting of an assembly, which should assume the character of a convention of the people. This you will recollect was an idea which clearly had occurred to some persons who were concerned in the conspiracy, particularly to Mr. Yorke; and which he communicated in conversations which have been stated to you in evidence.

This address, speaking of the abuses which are supposed to exist in the British government, and speaking of the laws of the country says—“We are every day told, by those persons who are interested in supporting the corruption list, and an innumerable host of sinecure placemen, that the constitution of England is the perfection of human wisdom; that *our laws* (we should rather say, *their laws*) are the perfection of justice;”—and then they proceed to speak of the administration of the country—They then state a number of proceedings which they think proper to find fault with—The convention bill in Ireland—the proceedings in Scotland—and they add—“In Scotland, the wicked hand of power has been impudently exerted, without even the wretched formality of an act of parliament,—having before adverted to the act of parliament which had been passed in Ireland “magistrates have forcibly intruded into the peaceful and lawful meetings of freemen, and, by force (not only without law, but against law) have, under colour of magisterial office interrupted their deliberations, and prevented their association;”—A declaration that they conceived the dispersion of that Convention at Edinburgh was an illegal act—Then they add—“The wisdom and good conduct of the British Convention at Edinburgh, has been such as to defy their bitterest enemies to name the law which they have broken; notwithstanding which, their papers have been seized, and made use of as evidence against them; and many virtuous and meritorious individuals, have been, as cruelly as unjustly, for their virtuous actions, disgraced and destroyed, by infamous and illegal sentences of transportation; and these unjust and wicked judgments have been executed with a rancour and malignity never before known in this land. Our respectable and beloved fellow citizens have

riety of publications, originating all from that address of the 6th of August, 1792, and which shows, that the leading men in these proceedings had the same thing in view, at least from that period.—“You may ask, perhaps, *by what means shall we seek redress?*—We answer, that men in a state of civilized society, are bound to seek redress of their grievances from the laws, as long as any redress can be obtained by the laws; but our common master, whom we serve (whose law is a law of liberty, and whose service is perfect freedom) has taught us not to expect to gather grapes from thorns, nor figs from thistles.—**WE MUST HAVE REDRESS FROM OUR OWN LAWS, AND NOT FROM THE LAWS OF OUR PLUNDERERS, ENEMIES, AND OPPRESSORS.**”

Translate this into plain words, conveying a plain meaning—What is it but this—You ask by what means shall we seek redress?—We answer, that men in a state of civilized society, are bound to seek redress for grievances by law, as long as any redress can be obtained by law; but, when all laws are violated, then that compact by which civilized society is kept together, is dissolved, and we have a right to act for ourselves.—That is the clear interpretation of the first part—They add, “But how can we expect to gather grapes from thorns, or figs from thistles.”—What do they mean by thorns and thistles? Why the king and the parliament—They assert that they could not expect any redress from them, or at least from the parliament, because they could not expect to gather grapes from thorns, nor figs from thistles.—“We must have redress, therefore,” they say, “from our own laws, and not from the laws of our plunderers, enemies, and oppressors.”—What does this mean, but that they must have redress from a Convention of the People; for this is an address to the people.—“We,” therefore, must mean “the people.” and “our own laws,” must mean “the laws of the people.”—We, the people, must have redress from our own laws, and not from the laws of our plunderers, enemies, and oppressors—characterizing, by those terms, the constituted authorities of the country.—And they add, “There is no redress for a nation circumstanced as we are, but in a fair, free, and full representation of the people.”

Gentlemen, these are declarations clear and plain. My learned friend called upon us to show clear and plain declarations. Can any thing be more clear and more plain? Here is no caution used—they had now determined to lay aside all caution—and you will observe, that my learned friends did not attempt to say one single word in explanation of any part of this transaction.—The fair, the free, and full representation of the people, which they describe, has been so over and over again explained, in their own publications, and in their resolutions and addresses; in the report of their committee of constitution, and elsewhere; that it is utterly unne-

cessary for me to go over that ground again, but merely to observe, that, by a fair, free, and full representation of the people, they clearly and unquestionably mean, on all occasions, a perfect representation of the people, as they sometimes style it; namely, a representation of the people, in an assembly which should act as a National Convention, like the National Convention of France, by means of which, every citizen should have the right of sharing in the government of the country, legislative and executive.—Then, here, gentlemen, they have clearly and openly declared their resolution to have such a convention of the people, and to create a republic upon the principles of the Rights of Man.

Now, gentlemen, if a man had proclaimed, in this country, the pretender, and thereby declared his intention to establish upon the throne of this country, that family which has been driven from it, instead of that which has since been placed upon the throne, no man would have entertained the slightest doubt, that the mere act of proclaiming the pretender, would have been treason; and my learned friends will recollect, that, in the course of the trial of Mr. Lyster, the very case is supposed by the counsel for the crown. They say, in answer to an objection with respect to evidence, “Suppose a man should have proclaimed the pretender, and then have gone away, and the proclamation could not be found, what would be the effect of that? Could not you give, in evidence, the contents of that proclamation?”—“Yes,” says Mr. Hungerford, the counsel for the prisoner, and who was no way a friend to that government, “the very act of doing that, would be, in itself, an overt act of high treason.”

Then, if proclaiming the pretender is an overt act of high treason, is there any difference between proclaiming the pretender, and proclaiming a republican government? And this is a proclamation for a republican government.—I do not mean to say, that all the consequences were immediately to follow; that the king of the country was to be considered, as from that moment, deposed.—This appears to be rather a proclamation that there shall be such a government; not that it shall instantly take place, but that it *shall* be established, and that they will take steps for the purpose.—And you will remember, that, in the case of treason, a plan once formed, and steps taken in pursuance of it, is sufficient to constitute treason; and it is not necessary that the steps should be effectual for the purpose.

Then they come to the following resolution:

“Resolved, That during the ensuing session of parliament, the general committee of this society do meet daily, for the purpose of watching the proceedings of the parliament, and of the administration of the government of this country.”—This, and the following ve-



any law, or for preventing the people from meeting in Societies for Constitutional Information; or any other innovation of a similar nature. *That, on any of these emergencies*—words which leave an opening for almost any thing.—That, on any of these emergencies, the general committee shall issue summonses to the delegates of each division, and also to the secretaries of the different societies affiliated and corresponding with this society, forthwith to call a *general convention of the people*, to be held at such place, and in such manner, as shall be specified in the summons for the purpose of taking such measures into their consideration."

Gentlemen, you will recollect, that just at this time the society for Constitutional Information (who were always acting in their way in support of the measures first adopted by the London Corresponding Society) thought proper to elect Barrère, St. André, and Roland, honorary members of their society; declaring, that they considered those men as "the most enlightened friends of Freedom"—"judicious," I think, they likewise call them. Gentlemen, the mere election of these persons to be members of their society is, in some degree, adopting their principles; but when in the very act of election they declare that they so elect them *because* of their principles—when men elect a person into a situation *because* they consider him as one of the most judicious and enlightened friends of Freedom—when upon a political subject, they declare they consider the principles of that man to be those of a judicious and enlightened man; they really transfer all declared and avowed principles from the person so elected to their own society, and make them in effect

relation to the other signature, but not with relation

Calling the attention of speeches, which is equal to shows the intent with which were proceeding; and that seemed a general convention supposing that convention by the other parts of the people have considered the people interposed their power to inviolability. For the assertion of the people, acting, ported by the power of the necessity have been an appeal of the people against the existing if the people in general, action of Barrère had *approved* and adopted the consequences would have formally interpreted royal inviolability, and all which are stated in this must have followed.

The speech proceeds to appeal should be made to says—"The people are convention is a perfect republic sovereign; the members assembly acted in August plebs in summoning the Convention declare that they saw but could save France, namely to the supreme will of the vites the people to exercise *unalienable right of Sovereignty* constitution had acknowledged could not subject to any res says—"The public interest people should manifest the

people as an assembly of the nature stated in this speech of Barrère, and upon which I have before so much observed.

Afterwards at a meeting of the committee on the 23d of January, it was resolved, that the toasts drank at the anniversary dinner of the society should be printed at the end of the address. These toasts testify their approbation of "the British Convention at Edinburgh"—of "Skirving, charged by the sentence of the Court of Justiciary with the honour of being the cause of calling that convention"—of "the London Corresponding Society, and the several other societies"—and then of "their condemned delegates." Then there is the following toast—"Success to the arms of freedom against whomsoever directed, and confusion to despots with whomsoever allied." These words, though they do admit of another interpretation, yet are in themselves general; and, considering the complexion of the whole of this transaction, they apply most directly to that which was the object of the meeting, namely, the establishment, by force, of a convention of the people, for the purpose of effecting, as they conceived, their own freedom; a measure to which, it is perfectly clear, under certain circumstances, they meant to have recourse. There is another toast which has a degree of ridicule in it, but you will see clearly what was meant. Mr. Barlow had said in his letter to the French Convention, that it had been completely shown *that a king was good for nothing*. One of their toasts is—"all that is good in every constitution, and may we never be superstitious enough to reverence in any *that which is good for nothing*." Now the words "superstitious enough to reverence in any that which is good for nothing," carry the allusion so directly to that letter of Barlow, and the works of Paine, in which the respect of the people of this country for monarchy has been treated as a superstitious reverence, that it is impossible to doubt what these persons meant when they gave that toast. And here I may observe, that in many of the State Trials you will find that toasts drank at meetings of persons engaged in such transactions have always been considered as important evidence of the minds of the persons so met; because, such toasts are given for the express purpose of animating the persons assembled to the acts in view? because, they are given for the purpose of taking advantage of the gaiety of convivial hours, when their hearts might be open, and liable to such impressions as it might be thought proper to make upon them.

Gentlemen, these societies next proceed to the assembling of their convention, which, by their resolutions of the 20th of January they had declared should be assembled under certain circumstances; leaving to themselves, however, such a latitude, that almost any thing which could happen might be pretended to amount to those circumstances, and to be a ground for assembling their convention.

On the 27th of March the prisoner wrote a letter to the Constitutional Society, in which he stated—"I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require. The London Corresponding Society conceives that the *moment is arrived* when a full and explicit declaration is necessary from all the friends of freedom." Therefore this letter of the prisoner declares, that *that moment was arrived* which is alluded to in the preceding resolutions of the 20th of January; and then he adds—"the Society for Constitutional Information is therefore required to determine whether or no they will be ready when called upon to act in conjunction with this and other societies to obtain a fair representation of the people; whether they concur with us in seeing the necessity of a speedy convention, for the purpose of obtaining, in a constitutional and legal manner, a redress of those grievances under which we at present labour, and which can only be effectually removed by a full and fair representation of the people of Great Britain. The London Corresponding Society cannot but remind their friends, that the present crisis demands all the prudence, unanimity, and vigour that ever may or can be exerted by men and Britons; nor do they doubt but that manly firmness and consistency will finally, and they believe shortly, terminate in the full accomplishment of all their wishes."

Gentlemen, here is a full declaration in this letter, written by the prisoner at the bar, that he looked forward to the actual accomplishment of *all his wishes*. What those wishes were has been already fully and sufficiently declared. They were—to establish in this country a representative government, founded upon the broad basis of the rights of man—the annihilation of monarchy—the annihilation of what he calls aristocracy—the annihilation of all ranks and distinctions of men, and giving equal active citizenship, and an equal right to every individual in the government of his country, legislative and executive—in fine, the complete establishment of a whole Republican government, without a king, without a House of Peers, and without any of those circumstances which belong to the constitution of the country as now established. He thinks that the crisis was come which demanded all the prudence, unanimity, and vigour that ever may or can be exerted by *men or Britons*; meaning to flatter the national vanity of his countrymen a little, by supposing that Britons had the habit of exerting vigour, prudence, and unanimity beyond what is commonly exerted by men. This letter is accompanied by resolutions, which in a considerable degree, echo back the resolutions, of the Society for Constitutional Information of the 17th of January.—



way pointed out by the constitution, has been, and is, the sole object of this society." Now no way had been pointed out by the constitution but that of a petition to the legislature. "For this we are ready to hazard every thing; and never but with our lives will we relinquish an object which involves the happiness, or even the political existence, of ourselves and posterity." When men say they never will, but with their lives, relinquish an object—when they say that the crisis is come, which they hope will shortly terminate in the full accomplishment of all their wishes, a full accomplishment of their object—what can they possibly mean but that they will attempt, to the utmost hazard of their lives, to obtain that object, which they consequently apprehend they must use force to obtain?

They add—"that it is the decided opinion of this society, that, to secure ourselves from future illegal and scandalous prosecutions; to prevent a repetition of wicked and unjust sentences; and to recall those wise and wholesome laws that have been wrested from us, and of which scarcely a vestige remains, there ought to be immediately a convention of the people, by delegates deputed for that purpose from the different societies of the Friends of Freedom, assembled in various parts of this nation; and we pledge ourselves to the public to pursue every legal method to accomplish so desirable a purpose."

Gentlemen, the previous resolutions of the 20th of January show what object it was that they really had in view, namely, the establishment (under the words "fair, free, and full representation of the people in a house of real national representatives," and the other words of which I have taken notice) of a complete

dence was formed for the purpose of putting into execution these resolutions. The necessary part of the scheme was carried out by the other societies in the same measure; and for that purpose a circular letter was sent (the writer was then a prisoner at the bar), following the crisis of the 20th of January, which crisis was arrived upon what we call the crisis.

"Citizens—The critical position in which we and Britons must either assent to or resist, the firmness their claims to liberty require, and the out resistance to the chains of usurpation is forging for the people, operate with us in the only way that now presents itself with success? We need not interpose, notwithstanding the unpopularity of a corrupt and overbearing government, present tramples on the rights of the people, our meetings can be interrupted without the aid of a convention bill"—and there is no means of preventing that—but that—"a measure it is a measure, that the ties of union may be drawn, and the sentiments of the different societies throughout the country compared while it is yet in our hands, to guide and direct the future of our friends of freedom. Rouze up your courage more, and let us show the world of this important truth. If we are down with threats, prosecutions, we are unworthy of liberty. We must be, however, Hessians and Hanoverians are not; and if we tamely submit



the public mind)—but taking upon itself by degrees, and showing its intention to take upon itself whenever it shall be strong enough so to do, the whole authority of the government of the country.—“We have a central situation in our view, which we believe would be most convenient for the whole Island, but which we forbear to mention (entreating your confidence in this particular) till we have the answer of the societies with which we are in correspondence.” Gentlemen, the place of meeting of this convention was to continue a secret. And here is another instance of that secrecy which we find throughout every measure, and which most clearly demonstrates that their intentions were not honest.

Gentlemen, this circular letter produced answers. Some of them have been read to you. The Norwich letter, which is dated the 29th of April, says, “it is with great satisfaction we view the manly conduct of you and your colleagues, especially when surrounded, as you are, by a domineering aristocracy, who, notwithstanding their great bluster, are but chicken-hearted.” It concludes, “we should be glad to know whether the friends of the people consent to a convention, and whether they will take an active part.” A letter dated the 11th of May, 1794, was sent from the Sheffield Societies, which states a meeting in the open air at Halifax, in order to consider measures preparatory to a general convention. This letter says, “they were advised by us to defer at present the meeting of delegates until farther information, which should come from you” (meaning the prisoner) “on that subject.” So that the thing was continually proceeding; for this is dated the 11th of May, and you will recollect that upon the 12th this unfortunate man was arrested.

There is a letter written by the prisoner on the 1st of May, 1794, which clearly and directly states the ideas he had formed upon what were to be the consequences of the measures they were about to adopt. It is in answer to a letter from Newcastle-upon-Tyne, on the 24th of April, 1794, which says, “Being charmed with your masterly and bold approbation of the conduct of your delegates, and noble martyrs for truth, Margatot and Gerrald, and finding your name signed as secretary to the Corresponding Society, we wish to copy your example, and beg, if you think us worth your notice, you will give us your views and intentions as soon as convenient, which I hope will be a means to stimulate and increase our numbers.” They had heard nothing of the convention, because this society was just formed. They conclude with a—“Farewell, hoping the hydra of tyranny and imposition shall soon fall under the guillotine of truth and reason.” To this the prisoner, on the 1st of May, writes this answer—“It is with pleasure the London Corresponding Society hear that a society on a similar plan, and with the same patriotic objects in view, is likely to be established at Newcastle-

VOL. XXIV.

upon-Tyne. If ever a crisis arrived that required the exertions of the people, to stop the current of corruption, infamy, and despotism that seems likely to overwhelm them, it is the present. In God's name then let us use the exertions—we are called upon by every thing that is dear to us as men, and as Christians. The cause of truth and liberty must finally be omnipotent, therefore doubt not that the glorious reign of liberty and equality will ere long be established, and modern governments, with every appendage of wickedness and corruption, will flee in time from their genial influence, as beasts of prey to their dens of rapine and darkness from the rising sun.” Certainly alluding to that which has been in their minds from the moment of that address of the Society for Constitutional Information to the National Convention of France, in which they represent what has passed in America as a *faint light*, but that a *great and brilliant light* was to burst forth upon man. That sun of reason which was to arise and illumine the whole world, was to come from the East—from France—before the genial influence of which, modern governments, with every appendage of wickedness and corruption, should flee. There is no possibility of doubting that in this letter the prisoner has virtually adopted the proceedings then going forward. He adds, “the London Corresponding Society have beheld, with indignation, the rapid advances of despotism in Britain, and are ready cordially to unite with every other society in the three kingdoms, who have for their object a full and effectual representation of the people. They therefore have deputed six of their members to meet six members of the Society for Constitutional Information, to form a Committee of Correspondence and co-operation. This committee meets regularly twice a week at No. 2, Beaufort Buildings, Strand,”—which you recollect was the place where Thelwall's lectures were delivered—“where any member delegated by your society will meet with every information required.”

You see, therefore, that the prisoner himself states on the 1st of May, 1794, not that nothing was doing, but on the contrary, that the Committee of Correspondence and Co-operation, by means of which the whole measure was to be effected, were regularly meeting twice a week in Beaufort Buildings, where any member delegated by this Newcastle Society would meet with every information required. The letter concludes thus—“We inclose you a few of our resolutions, entered into at our general meeting on the 14th of April, which will be sufficiently explanatory of our sentiments and views. We heartily unite with you in wishing that the hydra of tyranny and imposition may soon fall under the guillotine of truth and reason”—repeating the words which had been used by their correspondent.

Gentlemen, intervening transactions had taken place; namely, the proceedings of



parliaments) they should be opposed by one of the most able men in this country, and a man who, for a great number of years, has constantly acted in opposition to the king's ministers.

They then applied to Mr. Francis, who has been examined upon this trial.—Mr. Francis says, he told them, explicitly, at the time that they desired him to present their petition, that he likewise disapproved of the prayer of their petition, and that he likewise should oppose it to the utmost of his power. Gentlemen, you will recollect, that they concealed from Mr. Francis the purpose for which this petition was to be presented. He was not aware, that they had no serious intention in presenting this petition, and that their object was only to raise discussion and discontent; that was, in no degree, represented to him, nor were there stated to him a variety of other circumstances respecting the transaction. They likewise knew, that the Society of the Friends of the People would listen to no such measure. The Corresponding Society had artfully enough continued to keep up correspondence with the Society of the Friends of the People, after that society had discarded the society for Constitutional Information, because they saw that the Society for Constitutional Information was going to those great lengths, which the Friends of the People disapproved. They knew, therefore, that all those persons, who not only were not in the habit of supporting government, but, on the contrary, were in opposition to it;—when I say, in support of, and in opposition to government, I mean in support of the administration of the government, and, in opposition to that administration;—they knew that all those persons would oppose that very plan of reform, which those societies meant to introduce. They knew, therefore, that they could not hope to do any thing in parliament, and that a petition to the House of Commons must necessarily be nugatory, because all parties agreed in thinking, that the plan which they proposed was inadmissible, and yet they had expressly declared, that they would be content with nothing less.

Mr. Yorke, therefore, told the people at Sheffield, "It was now high time that the people should lay aside leaders, and discard factions, and act for themselves." He strongly enforced these principles, and then entered into a complete detail of the ancient constitution, as established by Alfred, which he proved to be at this time totally defaced, if not lost. He then pursued the gradual decline of popular liberty in England, from the anarchy which was the consequence of Danish and Norman invasion, and taking a general sketch of our history, so far as it was connected with the subject of popular representation; he made some strong and pointed remarks on the revolution in 1688.—He said, "that the revolution, at least so far as it respected the people, was not intended to be a

compromise between the king and the aristocracy, for the joint inheritance of the people, but to establish, on unequivocal principles, the right of the people, to govern themselves, and to recall those delegated powers which they had entrusted to their servants for this purpose, when they were either abused, or neglected to exercise them. If the revolution were not a revolution for the people, it was no revolution at all, but a conspiracy of a few ennobled oppressors, against the liberties and happiness of the many.—But, if it were designed to comprehend the whole, and its end has been perverted, or purposely laid aside, *the people are not warranted in petitioning, but are justified in demanding, as a right*, agreeably to the tone of language used in the declaration of rights, the restitution of annual parliaments, and the establishment of universal suffrage.

Then, gentlemen, he proceeds, in an extremely long speech, to observe upon the effects of that *universal emancipation* to which he looked; saying, that "oppressed nature will, at a proper season, depart from passive principles; and should an attempt be made to wrest what remains of liberty from us, I trust all men will concur to vindicate their violated rights;" and he concluded with saying, "When such a revolution of sentiment shall have dispersed the mists of prejudice; when, by the incessant thunderings from the press, the meanest cottager of our country shall be enlightened, and the *sun of reason*," of which we have heard so much, "*shall shine, in its fullest meridian, over us*, then, THE COMMANDING VOICE OF THE WHOLE PEOPLE SHALL RECOMMEND THE FIVE HUNDRED AND FIFTY-EIGHT GENTLEMEN IN SAINT STEPHEN'S CHAPEL, TO GO ABOUT THEIR BUSINESS." Then several resolutions were entered into, one of which was:—"Convinced of this truth, it is the opinion of this meeting, that the people ought to demand, as a right, and not petition, as a favour, for universal representation."—"That, therefore, we will petition the House of Commons no more on this subject."

It has been attempted to represent this, as meaning, that they would petition the House no more, in the character of separate societies, or individuals; but the resolution is explicit, and clearly shows, that that was not what they meant; for, they say, "Convinced of this truth, it is the opinion of this meeting, that the people ought to demand, as a right, and not petition, as a favour, for universal representation; that THEREFORE we will petition the House of Commons no more on this subject." The reason given for petitioning no more, would apply just as much to petitioning, in the form of a number of persons, assembled by delegation, at Edinburgh, or elsewhere, as it would to this meeting at Sheffield.—Then, as a sort of colour of their proceedings, and as the means of exciting discontent, a long petition was prepared for the abolition of the slave trade.



Gentlemen, they speak then of the rejection of their petition by the House of Commons; and they say, "Our petition was received with the utmost indignation, by the House of Commons, which was no more than we expected;" and, "although our petition was disdainfully rejected, because not couched in language sufficiently polite and respectful for the five hundred and fifty-eight gentlemen, who sit in the House of Commons, yet, believe us, fellow citizens, we are still of opinion, that the matter it contained was not only just and proper, but we think that even the language, which gave so much offence to the hon. gentlemen, was much too polite and too moderate for us. For, if the House of Commons were the real representatives of the people, we certainly had a right to dictate and not to petition."—You will find, throughout the whole of this transaction, that they had now assumed, that they had a right to dictate, and not to petition.—And you cannot form the slightest reason to believe, that a petition to the House of Commons was within their view.

They conclude:—"But our petition being scouted, we shall trouble them no more with our coarse and unmannerly language;—it will be our duty to proceed, as we have uniformly done hitherto, in enlightening the public mind, and when a complete revolution of sentiment shall take place (as will shortly be the case) in our country, we shall open our mouths in that key we think most agreeable to ourselves; and our voice, together with that of our disfranchised countrymen, will resemble, perhaps, the thunderings from Mount Sinai."—Clearly alluding to the idea, that the opinion of the people, supporting a convention, assembled and acting as a convention of the people, speaking, therefore, under that character, the public will, as described in Barrère's speech, would be irresistible; and that its thunderings would be in that key which the persons who composed it should think most agreeable to themselves, and would resemble the thunderings of Mount Sinai. Then they speak of their principles, and say, "These essential principles are both easy and comprehensive. On these we build our right to representation, and renounce the idea of future petitions."

So that they clearly renounce the idea of future petitions, not simply from themselves, but from any other persons, assuming their title to universal representation, as a right, and not as a thing to be obtained by petition:—"By these maxims we find that every Englishman is free, and that in the election of a supreme magistrate, or in the delegation of legislative powers, he concedes his actions to a certain superintendence, for the express purpose of preventing liberty from vaulting over its limits, and introducing a system of universal violence, injury, or licentiousness;"—applying "Election" to the supreme magistrate, as well as to every other part of the government of

the country; and therefore holding principles perfectly inconsistent with the present establishment of the British government.

Gentlemen, there are many other passages which might be observed upon, but I am afraid I have already infinitely too long trespassed upon your patience. There is one subject upon which I have hitherto said but little; I mean the subject of arming. I could wish, also, if I had strength for the purpose, to say something to you upon the subject of Chalk-farm; but I am really unable to do it.

With respect to the subject of arming, as it passed at Sheffield, what does it show? That, by some means, the minds of the people at Sheffield, I mean of the people who belonged to these societies, were impressed with an idea, that some civil commotion was to be expected, and that it was, therefore, necessary for them to provide themselves with arms for their defence; and I will take it, that those witnesses who have appeared here, spoke perfectly seriously when they said they meant these arms only for their own defence. But the purpose of Yorke, Davison, and Gale, who are the only three persons who appear to have been active persons upon the occasion, was as completely answered, whether they had armed those men for the purpose of self-defence, or any other purpose whatever. They had armed them with a weapon, cheaply and easily obtained, and easily used; they knew very well, likewise, that which appeared upon the examination, I think, of one of the witnesses for the defendant, that ten thousand such arms might, at Sheffield, be fabricated in a day; so that it was unnecessary that the actual fabrication of arms should be immediately thought of. Nothing more was wanting than to put the people in a train, for the purpose of obtaining arms when they should be wanted. The same thing may be observed, with respect to what passed in London.

As to the letter from Davison, it is perfectly clear, although we cannot trace the fact, that it had been communicated by the prisoner, in some way or other; otherwise Edwards never could have known, that the prisoner was the person to apply to, for a direction where to get arms at Sheffield.

Gentlemen, at a much earlier period, the persons concerned in this transaction, looked upon what was going forward, as possibly leading to extreme anarchy—I allude more particularly to the letter of Skirving, of the 5th of July, 1793, to the prisoner at the bar, in which he clearly and explicitly states, what his ideas upon the subject were. In writing that letter of the 5th of July, 1793, Mr. Skirving had it in his contemplation that, by possibility, in a very short time, the whole country might be in anarchy and confusion. He says—"If we sought only the extirpation of one set of interested men from the management of national affairs, that place might be given to another set, without affecting the vitals adverse to the system of reform, these



might be easily accomplished; but to cut up deep and wide rooted prejudices, to give effectual energy to the dictates of truth, in favour of public virtue and national prosperity, in opposition to self, and all its interested habits, and to withstand, and overawe the final efforts of the powers of darkness, is the work of the whole, and not of a part; a work to which mankind, till this awful period, were never adequate, because never till now disposed to fraternize; not merely or only, I trust, from the sense of the common danger to which we are exposed, but from the ennobling principle of universal benevolence. I think the minds of all must, in the nature of things be now turned to more effectual means of reform—not one person was convinced of the necessity of it by the most convincing arguments of reason, together, with the most unequivocal expressions of universal desire. What then is to be hoped for from repetition? I am only afraid that the bow in England, against reform, was so contracted, that in returning it may break. You would willingly learn, you say, from us; I own that we ought to be forward in this. We have at once in great wisdom perfected our plan of organization, and if we were in the same independent state of mind as the people of England, we should be able to take the lead."

He proceeds to observe upon the consequences of that plan of organization, which he says has been established, and the object of which was, to effect the reforms which he had proposed. He adds—"The associations with you are no more, I fear—excuse my freedom—than an aristocracy for the good of the people. They are indeed moderate, firm, and virtuous; and better cannot be: but we are the people themselves, and we are the first to show that the people can both judge and resolve, if undirected by faction, with both wisdom and moderation. I have not a higher wish in the present exertions for reform, than to see the people universally and regularly associated, because I am persuaded that the present disastrous engagements will issue in ruin, and the people then must provide for themselves; and it would be unhappy, when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue." What can this advert to but a contemplation in the mind of Skirving, so early as the 25th of May, 1793, that things were approaching to such a state, in this country, that there would be a dissolution of the whole of the existing government; and, if some other government was not provided in its place, that anarchy must ensue? "Let us, therefore," (says he) "take the hint given us by our opposers. Let us begin in earnest to make up our minds relative to the extent of reform which we ought to seek, to be prepared to justify it, and to controvert objections. Let us model the whole in the public mind. Let us provide every stake and stay of the tabernacle which

we would erect; so that when the tabernacles of oppression, in the palaces of ambition, are broken down under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it."

Now, gentlemen, here is a man contemplating that which was likely to be the result of the measures in which he was engaged, seeing they led to anarchy and confusion, and exhorting other persons to be prepared for the event, by providing a plan for that new government which he meant to establish, instead of the government which he meant to destroy. He then proceeds to describe what was the unfortunate state of the Roman government, after the nations which had been subjected by it, had been left "like sheep without a shepherd" clearly alluding to that state of anarchy which at that period prevailed in Europe; a state described in history so forcibly, and picturing so completely, in many instances, the present situation of France, that really when one reads that history, one almost imagines one is reading the history of the present state of France.

The letter proceeds—"We may suppose an event which we deprecate. Nay, should we not be prepared for every possible issue, at the present unprecedented divisions of mankind? we have a right to be apprehensive of the abilities of our own managers, who are so afraid to depart from precedent, that like men of detail, they may be inadequate to the task of preserving the vessel from shipwreck, now grappling with danger, not only great, but new and uncommon." The letter adds—"if the present ministry fail, who after them shall be trusted? It requires little penetration to see the anarchy and discord which will follow. It will be such, that nothing short of a general union among the people themselves, will be able to heal. Haste therefore to associate, at least to be ready to associate. If then such a broken state of things should take place, the civil broils that would necessarily ensue would soon subside, before the united irresistible voice of the whole. Do not, I intreat you, hesitate thinking such a work premature as yet; but a month, and then it may be too late." The impression upon this man's mind, unquestionably, was extremely strong—an impression not at all, indeed, warranted by the event; his idea was, that the danger was then great—he looked to the general dissolution of government—he looked to anarchy and discord—he looked to civil broils as necessarily ensuing; and the only hope he had, was in the united irresistible voice of the whole adopting some plan, to be actually formed, and ready to be offered to them upon the instant.

Gentlemen, this letter clearly shows, that that sort of civil discord had been long in the contemplation of these parties. Whether they ever took those means to provide for the



contingencies which might happen, which the writer of this letter recommends, it is impossible for us to know. All that I can observe is, that if you look into the report of the Committee of Constitution of the London Corresponding Society, I think you will find a sort of provision, not adapted merely to the purposes of a private society, but easily convertible to the purposes of a nation acting under the ideas which these societies had of the proper manner of governing a country.

Gentlemen, I will make one short remark upon what passed at Chalk Farm, principally with a view to call to your attention the very violent resolutions which were intended to have been adopted at that meeting, by one of the parties—I likewise would call to your attention, that the system of arming appears to have been, in some degree, adopted throughout—as to what was said with respect to the knives it certainly was a trifling circumstance, but the fact is not contradicted, and I would particularly remark to you, that a person of the name of Pearce, was named specifically in the evidence of Groves (whose evidence is the only evidence that has been in any degree materially affected) as one of the persons who were present at the transaction. He might have appeared and contradicted that assertion; he has not appeared and contradicted that assertion, he therefore must be taken, from his silence upon this occasion, to have assented to the truth of that assertion.

I would likewise observe, that Green, the man who in some respects contradicts Groves, was called on the part of the crown; and I think that you will believe, that those who had the management of this business on the part of the crown, when they called that man, had no idea of concealing from you any circumstance of which they could obtain evidence for your information. He likewise himself, upon his cross-examination, admitted something which might give some sort of colour to the evidence of Groves—but, gentlemen, put out of your consideration all the evidence that Groves has given—put out of your consideration these knives, and a thousand other little trifling circumstances—you will find all the parol evidence given, confirmed by the written papers—you will find not one word of that parol evidence contradicted, except so far as the evidence of Green, one of the witnesses on the part of the crown, contradicts the evidence of Groves, another witness on the part of the crown, in this single circumstance—at the same time that hundreds and hundreds of people might have contradicted the greatest part of the parol evidence which has been given, if it had been thought *wise* for the prisoner to bring those persons to the bar.

You will likewise recollect the paper of the *Ins and Outs*, which was certainly an incitement to arm, exactly upon the same principle which was proceeded upon at Sheffield the people to provide arms for

self-defence—the persons who so incited them, having no reason whatever for inciting them to arm, for any particular object, at that moment, but simply for the purpose of providing with arms the persons whom they meant afterwards to make use of, and having the power to refrain from telling them the application which they meant to make of them, till the moment when it would be convenient for them to do so.

Gentlemen, I have addressed you beyond my strength.—I feel myself unable to say any thing more, though I am well persuaded, indeed I well recollect, there are many things I meant to have stated, which I have not stated. To the utmost of my power, I have done my duty.—I trust you will do yours.—It is certainly very harsh to our feelings, to be compelled to press against any man, in a case the event of which may be the termination of his life.—You, gentlemen, are to give your verdict, according to the truth of the evidence laid before you.—If that should enable you to give a verdict of acquittal, I have no doubt that you will give it with joy.—If it should compel you to give a contrary verdict; bitter though the cup may be, you may not pass it from you. You have a solemn duty to perform; you must tax your own feelings; you must perform it. I have had a duty which I have found not only difficult to fulfil, but painful to my own feelings. I have endeavoured to discharge it faithfully. Having done so, I will now trouble you no longer.

Lord Chief Justice *Eyre*.—We are at the seventh day of this trial; and it comes to me now to sum up this great and momentous cause. Is it expected or wished, on the part of the prisoner particularly, and also on the part of the prosecutor, that the whole of this written evidence should be repeated to the jury? or, would it be satisfactory to every body, that the parol evidence only should be summed up to the jury, that they should be left to their recollection of the written evidence, together with the production of such parts of the written evidence, as, in the course of the summing up, it may appear to me to be necessary to have recourse to?—If it is at all the wish of the prisoner in particular, or the counsel for the prisoner, or if it is insisted upon on the part of the prosecutor, I shall not at all regret the expense of my time, or bodily fatigue, as far as it may be necessary for me personally to go through it.—I would willingly spare the jury, if I could, because their labour has been infinite; and, if I were to go through the whole of the written evidence, I am very apprehensive that I should only load them with an imperfect recollection of a mass of evidence, which, if it were stated again to them, they would in truth be less prepared to receive the observations that I shall make upon those parts of the evidence that appear to me to be material.

Mr. Attorney General.—On the part of the



prosecution, it appears to me, that I cannot better consult the interest of the public, than to leave the execution of this duty to that discretion which presides here.

Mr. *Erskine*.—I shall not express my own sentiment, because the attorney-general has expressed my sentiment completely.—I leave it entirely to the discretion of your lordship; and Mr. Hardy desires me to state his confidence in the justice of the Court, and to express his acquiescence in the mode your lordship proposes.

Lord Chief Justice *Eyre*.—Then I will take that course.—If, in summing up, there is any paper I should not state, which the counsel on either side, and particularly the counsel for the prisoner, should think may throw light on what I do state, if they will be so good as to put me in mind of it, as I go on, it shall certainly be read.

#### SUMMING UP.

Lord Chief Justice *Eyre*.—Gentlemen of the Jury;—The prisoner at the bar, Thomas Hardy, stands indicted for that he, together with John Horne Tooke—John Augustus Bonney—Steward Kyd—Jeremiah Joyce—Thomas Wardle—Thomas Holcroft—John Richter—Matthew Moore—John Thelwall—Richard Hodgson, and John Baxter—has compassed and imagined the death of the king;—the language of the charge is—“That they conspired, compassed, imagined and intended, to stir up, move and excite insurrection, rebellion and war, against the king, within this kingdom of great Britain, and to subvert and alter the legislature, rule and government therein established, and to depose the king from the royal state, title, power and government of this kingdom; and, to bring and put the king to death, and to fulfil, perfect, and bring to effect their treasons and treasonable compassings and imaginations aforesaid,” they committed several overt acts, which are charged in this indictment.—The first overt act charges “their meeting, consulting, conspiring and agreeing to cause and procure a convention and meeting of the king’s subjects to be assembled within the kingdom, with intent, and in order that the persons so to be assembled, might, without and in defiance of the authority, and against the will of the parliament, subvert, alter, and cause to be subverted and altered, the legislature, rule and government now established, and to depose, and cause to be deposed, the king from the royal state, title, power and government thereof.”

The second overt act charges him with “writing composing and publishing (the more readily and effectually to assemble such convention for the traitorous purposes aforesaid, and thereby to accomplish the same) divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, purporting, and containing therein, incitements, encouragements and exhortations, to move,

induce and persuade the king’s subjects to choose, depute, and send, and cause to be chosen, deputed, and sent, persons, as delegates, to compose and constitute such convention.”

The third overt act charges them “with meeting, consulting and deliberating the more readily and effectually to assemble such convention, for the traitorous purposes aforesaid, concerning the calling and assembling such convention, and how, when, and where the same should be assembled and held, and by what means the subjects of our said lord the king should and might be induced and moved to send persons, as delegates, to compose and constitute the same.”

The fourth overt act charges them with “consenting and agreeing, for the same purpose, that Jeremiah Joyce—John Augustus Bonney—John Horne Tooke—Thomas Wardle—Matthew Moore—John Thelwall—John Baxter—Richard Hodgson—John Lovett—William Sharpe, and John Pearson, should meet, confer and co-operate among themselves, for and towards the calling and assembling such convention.”

The fifth overt act is for “causing and procuring to be made and provided, and consenting, and agreeing to the making and providing of divers arms and offensive weapons; that is to say guns, muskets, pikes and axes, for the purpose of arming divers subjects of our said lord the king, in order and to the intent that the same subjects should and might, unlawfully, forcibly, and traitorously oppose and withstand our lord the king, in the due and lawful exercise of his royal power and authority, in the execution of the laws and statutes of this realm, and should and might, unlawfully, forcibly, and traitorously subvert and alter, and aid and assist in subverting and altering, without and in defiance of the authority, and against the will of the parliament of this kingdom, the legislature, rule and government established in this kingdom, and to depose, and to aid and assist in deposing the king from the royal state, title, power and government of this kingdom.”

The sixth overt act charges, “meeting, conspiring and agreeing to raise, levy and make an insurrection, rebellion and war within this kingdom, against the king.”

The seventh overt act charges the “meeting, conspiring, consulting and agreeing to subvert and alter, and cause to be subverted and altered, the legislature, rule and government established in this kingdom, and to depose, and cause to be deposed, the king from his royal state, title, power and government of this kingdom.”

The eighth overt act charges these persons with “preparing and composing divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses and writings, and with dispersing the same, containing therein, incitements, encouragements and exhortations to move, induce and persuade the



subjects of our said lord the king, to aid and assist in carrying into effect such traitorous subversion, alteration and deposition, and also containing therein, information, instructions and directions to the subjects of our said lord the king, how, when and upon what occasions the traitorous purposes last aforesaid, should and might be carried into effect."

The ninth overt act charges the "procuring and providing arms and offensive weapons, (to wit) guns, muskets, pikes and axes, therewith to levy and wage war, insurrection and rebellion against our said lord the king, within this kingdom."

For the present, gentlemen, you will attend to the evidence, with a view only to the establishment of some or other of those facts which are so charged as overt acts, the general effect of the evidence I shall take occasion to state to you, with observations upon it, when I come to state the whole of the evidence together.

The first witness that was called, after the written evidence was in a great measure gone through, was William Camage, who said, he was a member of the society at Sheffield; that he became so the latter end of the year 1791; that he acted as secretary, he believes, five or six months; he ceased to act in that capacity about the latter end of April or May last—he used to sign the letters, which were often written by others—the business of the society was managed by different persons—there was a committee—the leading persons of the committee were one David Martin, who used to attend the committee; John Allcock, George Widdison and Matthew Lodwin—they were persons concerned in writing these letters—that the professed object they had in view, was a parliamentary reform—that they chose Matthew Campbell Brown a delegate to the Scotch Convention, and that he was sent to Brown at Edinburgh, by the Society to carry him cash. He says, there was, at first, a parliamentary reform proposed to be brought about by petition to parliament. Being asked what was their next measure, supposing their petition was rejected, he said, he never heard any other specific plan, proposed by Mr. Yorke, or pointed out by him.

He says, the society was threatened to be dispersed in their meetings, by the people of Sheffield, by the opposite party; that they thought it necessary that they should have arms for their own defence; and he approved of it; he did not see any harm in the business; but they had a right to be armed for their own defence, against any illegal attack from that party, and to protect their meetings; this, he said, was the general idea amongst a great many, whose names he could not mention at present, he says, Mr. Yorke approved the idea. He was shown the blade of a pike; he said, it was shown to Mr. Yorke by Henry Hill, who is here as a witness, who is a shoe-maker's wife's son; as well as he recollects, who made that blade of the pike;

he said, he heard nothing of any other sort of arms, and nothing of arms in any other country; he said, he did not know of any quantity being made, excepting three dozen, which were made, he believes, by Hill; he says, he saw a pike handle at Widdison's; it was about eight or nine o'clock at night, when he went to Yorke's about it; that no person was present.

He says, he was at the meeting upon the Castle Hill, at Sheffield; that, at that time, there was no recommendation of arms. He says, he knew Davison, who was servant to Gale; and he also knew Robert Moody. Yorke recommended, that parliament should not be petitioned; he heard of an address to the people; he says, that Yorke was drawn home in a carriage, without horses; he heard Yorke disapprove of the Scotch Convention; for he thought the people were very much unprepared.

He proves a letter produced, to be under Davison's hand, addressed to Hardy, and that he had seen it in Davison's possession at Sheffield. Davison, he says, came originally from Leeds; and he acted as secretary at Leeds. He says, he desired that a letter from Hardy might be directed to Moody; and he said, the proper secretary's name, which was Broomhead, was struck out, because they thought some letters to the secretary had been intercepted. He said, Moody put handles to three dozen pikes; they were somewhere about seven feet long, made of fir; the blades about ten inches; they were about the same shape as a bayonet, fluted and pointed; there were none shafted, that he knew of, of any other shape; one was made before, which was not of that shape; and, as well as he recollects it, that one was shown to Yorke. He said, that Davison is gone off. He is asked as to a night cat; he says, he knows what it is; it stands four ways; the use of it he says is, to act against cavalry, by being thrown into the street.—This is his original evidence.

Upon his cross-examination, he says, a parliamentary reform was his object—a more equal representation in the House of Commons; he had no idea of any thing being meditated against the king's majesty, or the House of Lords; there never was an individual of the society had any such thought; they had no idea of carrying their reform on by force, or to overthrow the inclinations of the people at large, and the inclinations of parliament; he would not have continued a member, if there had been any idea of force; if the object they had then in view, might unfortunately have affected the safety or the honour of the sovereign upon the throne, he would not have continued in that society.

He said, he generally read the papers before he signed them, but not always; he continued to be a member after he ceased to be secretary, till the time he was taken up; he saw no reason to suppose they intended a mischief of this sort; they began to be

threatened with interruptions in March, 1794; he never heard that the proposed convention was, to put down the king and the parliament, and to take upon themselves the functions of government; the Sheffield Society thought that the Scotch Convention would petition, and that the House of Commons would attend to the application of a large number when a small number of individuals might be neglected; that he should have thought himself the most abandoned of mankind, if he had continued a member of the society, if they had taken up such sentiments; he said, he had never any reason to believe that there was an intent to destroy the constitution. He said, they were afraid of the opposite party making an attack upon them; they thought what they were doing was legal; they had no intention of arming against the king and parliament; he would not have remained another day in that society, if that had been the use intended to be made of these arms; but he thought they had a right to have arms for their own defence, upon the Bill of Rights, against any of those people that might attack them: Yorke said it was so. He could not take upon himself to tell what the delegates of the convention meant to do. He believes it was the cheapness of the article that recommended the pikes. As to the cat, he did not know that any were made from the model; he had seen some years ago, something of that kind at Newcastle; and, as he recollects, as to the time, it was some time about the American war; the letter alluded to in this man's evidence, is addressed to "Citizen Hardy, No. 9 Piccadilly, London."

"Fellow Citizen; the barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive, against any attack they may command their newly-armed minions to make upon us. A plan has been hit upon, and if encouraged sufficiently, will, no doubt, have the effect, of furnishing a quantity of pikes to the patriots great enough to make them formidable, the blades are made of steel tempered and polished after an approved form; they may be fixed into any shafts, but fir ones are recommended of the girt of the accompanying hoops at the top, and about an inch more at the bottom; the blades and hoops, more than which cannot be properly sent to any great distance, will be charged one shilling; money to be sent with the orders. As the institution is in its infancy, immediate encouragement is necessary." They have struck out "Orders may be sent to the secretary of the Sheffield Constitutional Society."

"*Sheffield,* (Signed) RICHARD DAVISON."  
"April 24, 1794."

"To prevent post suspicion, direct to Mr. Robert Moody, joiner, Cheney Square, Sheffield. Please to forward the enclosed."

The witness says, Davison might have  
VOL. XXIV.

the same views for the people in London as the witness had in Sheffield; he says the pikes would cost about twenty pence. Being asked if he ever heard of such a place as the Parrot in Green Arbour Alley, London, he says he does not know any thing of it.

The next witness is William Broomhead, he is a cutler at Sheffield, and was a member of the Constitutional Society there at its first institution in 1791; he says he did not know that he was one of the twelve who were associated with the London Constitutional Society; he has some idea of a letter having been written that they might act in conjunction, but never heard of the association; he was secretary of the society in Sheffield for the last five months before he was apprehended, which was in April; he says the object of the society was a parliamentary reform, by meeting and endeavouring to enlighten each other, and to spread the knowledge of grievances, that they might unitedly apply in the most unexceptionable mode for a reform of parliament; the term universal suffrage he did not hear of till the Edinburgh Convention; he says he knows Yorke, who sometimes goes by another name, by the name of Redhead, he resided at Sheffield several times; he cannot tell exactly how long, the last time might be six, seven, or eight weeks. The witness knows Gale; he says Yorke used to attend the weekly meetings during his last visit at Sheffield, but he was not a settled inhabitant of the place; that he was considered as a man of considerable abilities, and an orator, and treated with respect; he said he wrote several pamphlets at Sheffield; he used to bring parts of them to be read to the society at these meetings.

The society held these meetings in a small and in a large room; there was an elevation for the speaker, which some called the pulpit, some the tribune; from this tribune Mr. Yorke addressed the society. He was at the meeting upon the Castle-hill, Mr. Yorke was there, and expatiated very largely upon the corruptions which had crept into the constitution, or rather the evils complained of; he says his manner of speaking sometimes carried him farther than he ought, he was peculiarly energetic, fiery, very warm, very strong. But that he said nothing contrary to the law and constitution.

He says it was settled at a previous meeting, that he the witness, should make a motion for a petition to the House of Commons, in order that it might be over-ruled, for the purpose of introducing another motion in its place; he says he made his motion and it was objected to, with a view to the introducing another; he says there were four of them of the committee, himself and three more—that several people were assembled; the new motion was, to petition his majesty, it was drawn up before they assembled, for a reform in parliament; that Mr. Yorke addressed the people, that the petition was sent to London

to earl Stanhope, but he did not think fit to present it; they afterwards agreed that Mr. Yorke's speech should be printed; it was printed and published at Sheffield; a printed copy was shewn to the witness, he believes that which is now produced was one; there were some, he says, to be had at Mr. Gale's shop; he says at their private meetings copies of this were directed to be sent to several persons; several packets, to the amount of twenty-four or more were wrapped up separately, put in a box, and sent to the prisoner.

The witness says he was applied to by one John Allcock to become secretary; he says he had nothing else to do, that the war had destroyed his business, and therefore he accepted it; he heard a report of arms in Sheffield; that other people met, but he purposely avoided meddling, in thought or act, with any matter of that sort; he heard of arms in the society, a few days before this meeting; it had been spoken of as the right of the subject to have in their power the means of defence; he says a spurious hand-bill had been published in the town; he says that the having arms was spoken of as a right, he thinks it was after the meeting at the Castle-hill; he says it was at a public meeting of the society; there were several other people who were not members of the society, they were introduced by members as visitors; he says he never saw a pike till he was brought to London, but that pikes were talked of; he saw a model of a night cat, which was only like a play-thing for a child, that it had four spikes, one Charles Rhodes produced it; that the conversation about it was not a serious one, but he considered it as the act of a child, and it was talked of in a careless, idle way.

He says he remembers Yorke saying we were in a low, despicable situation, and rather than submit to it, he would go up to London with the people that were there; this, he says, he thinks was before the talking about arms; the reason for his remembering this passage was, the pain he felt at hearing any thing of that sort said, for, he says, that for himself he fears God and honours the king.

He says that he has seen a pamphlet of the sort of this that was now produced; that upon the Fast-day the people assembled at the top of the town, that there were a thousand or two thousand, and that they acted as described in that paper. The paper was found upon Hardy by Mr. Lauzun, and proved by this witness, it is an account of the Fast-day as observed at Sheffield, and of a serious Lecture which was held there, the title of it is—  
"Fast Day as observed at Sheffield, a serious Lecture delivered at Sheffield, February the 28th, 1794, being the day appointed for a general fast; to which are added a Hymn and Resolutions."

The lecture turns upon the destruction of the priests of Baal. The hymn does not seem to have any thing very necessary to be stated; these are these stanzas in it:

"O Thou whose awful word can bind  
"The raging waves, the raging wind,  
"Mad tyrants tame, break down the high,  
"Whose haughty foreheads beat the sky;  
"Make bare thine arm, great King of Kings,  
"That arm alone salvation brings;  
"That wonder-working arm which broke  
"From Israel's neck the Egyptian yoke.  
"Burst every dungeon, every chain,  
"Give injured slaves their rights again;  
"Let truth prevail, let discord cease,  
"Speak—and the world shall smile in peace."

#### The Resolutions are,

"Resolved unanimously, "1. That war, the wretched artifice of courts, is a system of rapine and blood unworthy of rational beings, and utterly repugnant to the mild and benevolent principles of the Christian religion."

"2. That if the present war be a war of combined kings against the people of France, to overthrow that liberty which they are struggling to establish, it is in our opinion a war of the most diabolical kind.

"3. That when public fasts and humiliations are ordered with the same breath which commands the shedding of oceans of human blood, however they may answer the purposes of state policy, they are solemn prostitutions of religion."

"4. That the landing of Hessian troops in this country (a ferocious and unprincipled horde of butchers) without consent of parliament, has a suspicious and alarming appearance, is contrary to the spirit of our constitution, and deserving of the marked indignation of every Englishman."

"5. That it is high time to be upon our guard, since these armed monsters may in a moment be let loose upon us, particularly as the erection of barracks throughout the kingdom, may only have been an introductory measure to the filling them with foreign mercenaries."

"6. That the high and freeborn minds of Britons revolt at the idea of such a slavish system, and cannot be so far broken, as to kiss the hand which would chain them to its will.

"7. That peace and liberty are the offspring of Heaven, and that life without them is a burthen."

"8. That the thanks of this meeting are due to earl Stanhope for his motion and spirited speech for acknowledging the French republic, and restoring peace to our distressed country, for his motions and able speech in behalf of the persecuted and suffering patriots, Messrs. Muir, Palmer, Skirving, and Margat, in which he nobly stood alone, and also for the whole of his truly animated and benevolent exertions in support of the injured rights of the people."

"9. The thanks of this meeting are also due to Mr. Sheridan for his nervous and eloquent speeches in the cause of injured pa-



triotism, and in support of the constitution; and also to every other member of parliament who has nobly stood forward at this important crisis in support of the constitutional liberties of Englishmen."

"10. That if any thing had been necessary to have convinced us of the total inefficacy of argument against a ministerial majority, the decisions which have lately taken place in parliament would have fully confirmed our opinion."

"11. That therefore the people have no remedy for their grievances but a reform in parliament; a measure which we determine never to relinquish, though we follow our brethren in the same glorious cause to Botany Bay."

In the next page—"The London Corresponding Society united for a Reform in Parliament—Committee Room, March 20th, 1794—Resolved, that the society approve the sentiments contained in the serious Lecture delivered to the Constitutional Society at Sheffield, on the twenty-eighth of last month, and earnestly recommend it to the perusal of all who think civil and religious liberty a blessing."

"Resolved, that the commanding a general fast for the purpose of imploring the Divine Father of mercy and peace to support and prosper us in the horrid act of deliberately destroying our fellow-creatures, is repugnant to the true spirit and principles of christianity, where we are commanded to pray for our enemies, &c. and farther considering that a great part of the people are unacquainted with the nature of the present war, either as to its justice or necessity, every endeavour being used to keep them ignorant of the real principles and designs for which it was commenced, to approach and to supplicate the Omnipotent Power under such circumstances, and for such a purpose, must indeed be dreadful, since knowledge and conviction are wanting; the worse than hypocritical hearts of those who are the authors of such a measure, although they at present impose upon the ignorant and credulous by such detestable, such pretended show of devotion, cannot escape the chastisement of that Power whom they thus insult, and from whose judgment there is no appeal.

"T. HARDY, secretary."

The next paragraph is:—"Society for Constitutional Information, March 21st, 1794.

"Resolved, that the secretary of this society be directed to write to the Friends of Peace and Reform, at Sheffield, and to assure them, that this society views, with pleasure, their steady exertions to obtain a fair representation of the people of Great Britain, in parliament, and the proper methods which they have taken to employ, usefully, those days which may be appointed for public fasts.

"D. ADAMS, secretary."

This publication, and the resolutions thus

entered into, on the Fast-day, at Sheffield, received the approbation of both societies, the Constitutional, and also the London Corresponding Society.

William Broomhead goes on with his evidence:—he says, that the society consists of about six hundred; that they never amounted to many more; certainly not to two thousand, they had been represented to be of that number in some papers, which led to this explanation. The distribution into divisions, or sections, was not regularly kept; that they were to meet as they thought proper; but that they were to collect a penny a week each, to make a fund; he says, that that part of the business was not properly attended to; the district meetings were not regularly and properly attended to.—He says, that a gentleman, from Halifax read the lecture, and that the pamphlets were sold, but they had not a very extensive sale; the witness himself composed a prayer that was used upon the occasion; the copy was delivered to the printer, and it was settled, at a private meeting of some of the members, that it should be so printed.

They next go to the proceedings at Sheffield, in the open air, on the seventh of April, 1794, which are also in print, and were found upon the prisoner, which, I think, should be read to you.—I have only to observe, at present, upon this paper, that, as to the general libellous turn of it, nothing very material to the present question arises, but that there is one passage in the petition, which may be very material for your consideration, where he talks of an impending storm, connecting that with the date, which is the seventh of April, 1794, it may be hereafter matter for your consideration.

[See pp. 613, *et seq.*]

I thought it necessary that the whole of this paper should be read, because the paper has been very much relied upon in the cause, and because different constructions have been put upon it by the counsel in support of the prosecution, and by the counsel on the part of the prisoner: the importance of it is not drawn so much from its general extravagance, as it is from the particular circumstance that it purports to resolve, that the body that were then assembled at Sheffield, would petition parliament no more, and would try some other course; what was meant by petitioning parliament no more, and what was meant by trying some other course, will be a subject for your deliberations when you take this paper, with all the circumstances that preceded it, and that followed it, keeping in your minds, that this is a paper which was published among a very numerous set of people, assembled at Sheffield, just about the time that the proposition for a convention of the people was under consideration, in a committee of correspondence and co-operation of the two societies, the Constitutional and Correspond-

supposed, of exciting the people against the society; it was a call to the people to arm against foreign and domestic enemies; that the adverse party to him, and his friends, at Sheffield, had given out, that they should be able to do nothing with him, nor his party, the society, till they could cause a riot; that, from this, he understood, that arms came to be talked of; that it was to oppose illegal force, such as had been used at Birmingham, and at Manchester; such as was against the law of the land; he says, Gale had, in his hand, the hand-bill, at the time they were talking of arms; and there were several resolves printed, in his paper, the week following, being a direct answer to it, mentioning something upon the matter.

Being asked, if any of the people in this society to which he belonged, had any idea of making any attack upon the king, or the House of Lords, or had any idea of altering the government, in that respect; he says, it was as much his intention to fly to the sun; he says, his object was, to enlighten the people; to show them the ground of all their complaints and sufferings, when a person worked for twelve hours a day, and could not get a living; that was what he understood of it; their object was parliamentary reform; as such they corresponded with the Society of the Friends of the People, as well as the Constitutional Society; he says, he would not have been a member of this society, if there had been any idea like that of attacking the King, or the House of Lords; he does not think there was such a wicked man among them; that parliamentary reform, in the House of Commons, was their object; that the idea was, that King, Lords, and Commons might, with the concurrence of the nation, make a reform; that no one, in Sheffield,

He says, he does not know being come to, to write this have been after he was gone some part in the debate, as that they, the Society of People, were honest; that promised to use all constitutions were not satisfied with this about the twenty-sixth of the hand-bill had been; they published a counter and they took the same word advertisement, as had been hand-bill, and had it inserted calling upon the people to invaders, and domestic ene-

He was asked, as he threatened, whether, before had applied to any magistrate. He states that Gale and active members of this society papers, and that the society doing it; by which he means they were more violent than been; that they winked at having a good opinion that the resolution respecting the troops, was passed for bill; he knows nothing that was sent at the time the responding Society, by Davison, if he sent the letter his knowledge. There were of the date of the twelfth 1794, of the Constitutional twentieth of March, of 1794.

was quite full; there were between sixty and a hundred people; that Yorke took his leave of the society by a speech; that he talked of going to some place, which he called *Bel-gi-um*; that he understood him, he was to head the French army, and that they would be ripe for a revolution by Christmas; what was really said, how this man must have misunderstood, we cannot very well guess, but to be sure it could not have passed exactly as he understands; and what he meant by, "they would be ripe for a revolution by Christmas;" whether he meant, that the part of the world, where he was going, would be ripe for a revolution, or whether he meant, when he came home, they would be ripe for a revolution, does not at all appear, by this man's evidence, any way that you can depend upon; but, he adds, that he hoped to come to London, at the head of them; that is, I suppose, the French; and he talked of having the honour of being a member of the convention, in France; he hoped he should come at their head, hither; that the society would join them; that Mr. Pitt's, the other ministers', and the king's heads, should be upon Temple Bar; that the king and queen of France had met with what they deserved; that the Sans Culotes were a set of brave fellows; and he hoped, when he came, that the society would not shrink from what they pretended to be; he said, it was impossible to do any thing without some bloodshed; he said, that there were a set of brave men at Sheffield.

He says, that the night before this conversation passed, there was a man at the meeting, who came from Sheffield, who said there were pikes at Sheffield, at six-pence a piece; another man answered, that it would be right to have some; it would only be living upon bread and cheese for one day. After this the witness says, he went and discovered what he knew to Mr. Dundas, and the lord mayor, for he thought it was proper government should be let into the light of it; he was first asked to go to their place by a friend of his, one Smith, a delegate; he was asked to be made a member; he was there seven times in all; and this is the whole of his evidence. You see the substance of it is, he gives an account of a very extravagant conversation, supposed to have been held by this Yorke, at the meeting; what you will make of it, is for you to judge.

Upon his cross-examination, he says he was a linen draper; he resides now at the Rose, in the Fleet Market; that it was at the latter end of the year, 1793, when a friend asked him to go with him to one of those divisions; that Whitehorn said Smith had asked him; that Smith, Ashley, and Baxter, were there; that nothing happened to offend him that night; some papers were read; Whitehorn had belonged to a Society in Holborn, which the witness did not know till afterwards; that, for his part, he never wished for a reform in parliament; he said, that he

had read a paper which they gave him, to two or three of his friends; he said, he went the second time to see what they were upon; that he had not, at the first time, been desired to go, but that he had been twice after he had been at Mr. Dundas's; he says, they all shook hands with Yorke at parting.

He says, he is not now in employment, and has not been since May; he had been a few months at Mr. Kellerby's, in Finsbury-square, who was a linen draper then; he has since let his shop to another person, and carries on the tailoring business; he had been before at Mr. Faulder's, a linen draper's, in Holborn, almost two years; he says, he was lately engaged with a Mr. Marley, in Holborn; he left him on Friday last, telling him he was going out of town; the reason, he says, for doing that was, that he thought of going to Sheffield, and it would not be convenient to pretend to remain in place, when he could not stick to it. He was asked, what passed the other nights; he says, he has no particular remembrance of any thing; but the third or fourth night he saw Yorke; he heard Yorke say, he had been to Newgate to see Mr. Frost; he never heard Yorke mention any thing about pikes, and he says, he does not think Yorke was at the meeting the night that the pikes were talked of.

Gentlemen, if much depended upon the credit of this witness, there certainly are some observations that go to his discredit, upon this cross-examination; at the same time he is not contradicted as to the facts which he has sworn, by any person that comes from the division; it is not possible to say, that his evidence is not to have regard paid to it, having regard to it, still you will take it with those allowances that you ought to make for an account of the sort that this man has given, which is not very correct, and not very intelligible, in every part of it; it does seem, upon the whole, if his evidence is to be depended upon, that Yorke was at this meeting; that he was then going somewhere, and he talked extravagantly, and of coming to London to head a revolution, sometime about Christmas, and hoping the society would join with him, when he did come; what is to be the effect of that upon the whole of the case, you are to judge.

Thomas Whitehorn says, he is shopman to a bookseller; he became a member of the London Corresponding Society the same evening with the last witness; he says, he was there four times; he saw Yorke there once; there might be from forty to sixty people; another says, I think, from sixty to a hundred; the room was full; Yorke seemed to be very well known; he made a very long speech; he heard him speaking very loud; what it was, he could say nothing at all to, but he did understand something of his going abroad; he himself had lived with Mr. Owen, in Fleet-street; afterwards he went to a Mr. Bagster, in the Strand; he saw Alexander after this; but that he himself left the society, he



after the execution of the king of France; he saw him at the Castle-hill, in the month of April; he used to dress his hair. It was the general talk of the town, at the time the arms first began making, and he made a dozen of pike shafts for Gale; that Yorke inquired when they were made; when he had finished one, he carried it to Yorke, and asked him, if it would do; he said, yes; he took about a dozen and a half; that Mr. Wilkinson took them; he understood they were to be used in their own defence. Yorke used to say, he wanted universal suffrage, and that the society were all for that; he says, there was not much disputing about the mode; that some weeks before Yorke left Sheffield, he (the witness) disagreed with him about this universal suffrage; he told him he thought the plan would not do, that they would carry it too far; to which Yorke said, "I have studied it, and nothing else will do:" he says, that there it ended; they differed in sentiment, and had no more conversation about it—he said, he expected to be paid for the pike handles by the people who took them.

Upon his cross-examination, he said—that he was a friend, in general, to the king—that the society, in general, were—that he would not have continued in the society if he thought they were not—that the first notion they had of universal suffrage was taken from the duke of Richmond's plan, which was read in the society, and generally approved of—he never understood that it was meant to do any thing by force—that he did not think the people's minds were prepared for it (by which I understand him to mean, prepared for the plan)—he thought at first that it might be done

first, as the French did:—The witness replied, that he hoped such idea; that if there arm themselves in their therefore they thought it themselves. He said, that never made a part of their had no thought of any resort—he says, that Yorke get warm in conversation, speak, but he had no reason was not well-affected to the to Davison's letter, he knew and he admits that he was who gave thanks to Mr. Paine.

This is the first witness of this plan of reform, and it was; and to be sure it is a high rank and consequence and who have situations to debate and promulgate the the political state of the country commit them to the press in this was committed; the which is, that it is in the power to disperse them to any means they find their way persons too often unequal examining and discussing they become by that means infinite mischief to the country this is the general history of reform, that has thus found minds of the lower orders of say, a lesson that I think property ought never to forfeit.

Gentlemen, the next witness, Hill, a cutler at Sheffield.—



to Compton-street, where his division used to meet; they supped, and staid there till eleven o'clock; Thelwall was there.—He says, that there was a meeting upon the 2d of May, 1794, at the Crown and Anchor-tavern, at which he was present, having a ticket given him by Mr. Joyce for the anniversary dinner; that the address from the Globe-tavern was read before dinner at that meeting, and distributed afterwards; the paper which he spoke of, he received at the Three Tuns on Snow-hill, which was after the 20th of January: therefore, I suppose that paper was the address from the Globe-tavern, according to his former evidence.—he says, he has been at Thelwall's lectures—that the price of pikes was to be a shilling for each blade.

He was asked as to Gosling and Hillier—he says, he knows them; they came to his father's house on the Monday, he mentioned before there having been a meeting appointed in Green Arbour-court, to lay down money for the pikes; the meeting was postponed to the following Friday.—While Gosling and Hillier were with him they heard that Hardy was apprehended (that accounts for their not having the pikes); he did understand they meant to have attended the meeting on the Friday—that fir was recommended for shafts to these pikes—he had a pike made himself; he destroyed the blade upon the Wednesday after he heard Hardy was in custody, being afraid it should be found. He was asked if he had a magic lanthorn? he said he had one—that it had nothing but the destruction of the Bastile and the beheading the governor painted on it.—He says he knows Hillier; that he had a pike, but not of the same construction as his.

Upon his cross examination he says, he became a member of the Corresponding Society last July was twelve month; that he made a pike for himself in March, 1794—he says he heard Yorke at Robins's Coffee-house say, that they had pikes at Sheffield; and he says, he understood that several members had furnished themselves with arms—he says, it was just about the time the Hessian troops had been landed without the consent of parliament; but he says, he had no intention to use these arms against the government of the country—he meant to get pikes for some who might want them for the same purpose as, he says, he did, to defend himself in case there should be any illegal dispersions of the meetings, not against any legal power, but only against illegal attacks upon them; that a great deal of opposition had been shown to their meetings when they proposed to associate.

He says, Hardy was always very quiet in the division; he never used any improper expressions; that Hardy made no propositions for arms or pikes; that he told Hardy, he had made a pike. He says that Baxter gave that bill, La Guillotine, to two or three persons; and he, wishing for one, got that

which he produced; he says, he does not know that Hardy ever saw that; he does not think he would have approved of it; the first bill was of another edition. He understood Hardy knew who the persons were to whom he was to send for pikes; he says that the pikes were made at the time the Hessian troops were landed. He had notice that there were some spirited Resolutions by the Sheffield Society; he learnt it from a book he purchased at Eaton's shop.—He says that his society met without the use of any weapons for two years previous to that time; but he heard that a division in Bunhill-row had been often interrupted by the police officers.

Now, the material fact upon this young man's evidence with regard to the prisoner, is, that it adduces pretty strong proof that the letter had been received by Hardy from Davison, and that he had, in some sort, acted upon it; whether he had proposed it publicly at the division, or no, yet that he had such a letter, and could tell them where those pikes were to be got; in consequence of that, he made an application to Hardy; and in consequence of that application, there was to have been a meeting at the Parrot in Green Arbour court, where as many as chose to have pikes were to pay the money; which certainly connects Hardy with these pikes, so far as that transaction goes.

The next witness is Samuel Williams;—he says, he is a gun engraver; that he was a member of the London Corresponding Society; he knew Franklow; he saw him in his own house; he was also a member of the Corresponding Society; that Franklow had applied to him to make some arms for him; he saw the feast advertised, and went to Hardy for a ticket; Hardy said, it was not usual to give tickets to those who were not members; he gave him one of the addresses, and said, it was for a reform in parliament. The witness says, he gave Hardy an order for some shoes, which Hardy made; and then he told Hardy, he was in a line for selling guns; Hardy desired him the next time he came, to bring a gun with him; he brought him one; Hardy sold it, he then gave Hardy an order for a pair of boots; Hardy bid him bring two or three guns, which he sold likewise; and one gun was in the house, which was not sold, when the prisoner was apprehended.

He says, he knows Spence, of Little Turnstile; he had seen Franklow there; he went to Spence's to instruct persons in the manual exercise, at the request of Mr. Franklow; that they exercised in a one or two pair of stairs room, between eight and ten in the evening; and he thinks that the curtains of the room were down; they used to meet on Thursday night. He says, he became a member by Mr. Hardy's recommendation, about a fortnight or three weeks after his first seeing him. He says, he knew a society called the Loyal Lambeth Association; that was the association to which these people belonged;



he says he was in a meeting there at Franklow's house, in the month of June, 1819, and that he saw there a man called Franklow, and that he saw a number of men who were armed with guns. He says there were about 20 or 25 men there, and that he saw a number of arms, and that he saw a number of men who were armed with guns. He says that he was in a meeting there at Franklow's house, in the month of June, 1819, and that he saw there a man called Franklow, and that he saw a number of men who were armed with guns. He says there were about 20 or 25 men there, and that he saw a number of arms, and that he saw a number of men who were armed with guns.

The printed Articles were produced, which describe how they were to be armed; and it states that the 12 volunteers of Lambeth were armed with apparatus of an invasion and of a constitution; that therefore they meant to execute that part of them met at the Borough; that a committee of the association was not to go beyond the parish of Lambeth; that they proposed to divide into 12 companies. He says their conversation was about a parliamentary reform; but, from conversation with Franklow, he understood, that, if they did not get a reform in parliament, they would have it by force of arms; that none but members of the London Corresponding Society attended the Lambeth Association.

Further, this man speaks of guns, which he supplied to Hardy and to Franklow, for the Lambeth Association; with regard to what he supplied to Hardy, I think you can hardly find much implication from that upon Hardy; it is a mutual concern in trade; this might be said by having shoes of Hardy; and he intimated to Hardy that he was in the gun line, in consequence of which, Hardy gave him an order, and he gave Hardy another order, and then Hardy gave him another order, and he disposed of muskets for him, which he might do, for all that I see from that part of the case, very innocently; but it has somewhat of a different complexion with respect to Franklow's Association; for, if any thing is to be objected to that association, there is something to object to Hardy, for having given this man a card to Franklow, and mentioning his association.

Now, that this association was to be objected to, is evident from the circumstances of the case; for, you see, this is an association carried on in a private and clandestine manner; they meet in small parties, exercising in a room, at a late hour, the curtains down, and circumstances of concealment, and a concealment, very contrary to what might be expected in the ordinary case of an association, where people are proud of their arms, and of appearing in their uniform; so that nothing seems to account for their proceeding in that clandestine manner; therefore the Lambeth Association seems an assumed name, and not warranted by the real circumstances

of the fact: they were members of the London Corresponding Society, and therefore as far as the matter went, were preserving themselves with arms, and as far as the circumstances went, using themselves in the name of arms: how far the stranger is, under these circumstances, to be implicated in this, you will judge.

The next witness is Frederick Peirson, Soldier. He says he was a member of the London Corresponding Society; he says, he saw Williams at Spence's, when men were exercising; that some of them were members of the Corresponding Society. He only goes to confirm Williams, as to his having seen Williams at Spence's exercising men.

Williams was called again. He says, that he remembers a strange conversation in Hardy's shop, about how long we had been getting a thousand guns; he said, that it was a long far beyond his capacity, to manage such an order; and therefore there was no more conversation about it: I do not think much is to be made of that; the man was a stranger; Hardy did not appear to join in the conversation; it seems to end in nothing; and I do not think you can connect it so as to make any thing out of it; therefore I do not mean to state it as a circumstance upon which you can raise any thing.

The next witness is George Sanderson, who says that he was at Shelmerdine's, in the Borough, upon the second of April; he says, he went there to decide a bet; that he saw there, about seven or eight stand of arms, and some men exercising, who belonged to an armed society; that they were members of the London Corresponding Society; that their numbers were about twenty-six or twenty-seven; he says he might have seen about twenty-four or twenty-five together at Shelmerdine's; he says they objected to him because he was not a member of the London Corresponding Society, but they admitted him upon his promising to become a member; he understood that they were to obtain a reform of parliament at the point of the bayonet; he does not mention who said that, nor what the particular expressions of the conversation were from which he collects that, but that he collected it from their general conversation.

He says that they adjourned to the house of one Day, in Worcester-street, where there was a private committee, who had settled certain places where they were to assemble; he says that one of the meetings was at Spence's, another at a shed in Westminster, near Tothill Fields Bridewell; he attended pretty constantly, sometimes at Spence's, sometimes in Westminster, from the eleventh of April to about the first of May; they were taught the manual exercise by one Orr, who had served with the French army, who was also a member of the Corresponding Society; he says that Shelmerdine was a latter, that he frequently changed his men; and he said one reason for removing from Shelmerdine's,

was, that they thought some of his men might not be staunch to the cause; that was his expression.

He says he was one night at a meeting of the division in Shire-lane, a member mentioned a circumstance which was not proceeded upon, and therefore does not seem to amount to much; that Mr. Pitt was to go over one of the bridges at twelve o'clock at night; somebody said it was very improper to make any comment upon that, and nothing more passed upon it; he says there had been news of a defeat of the British army, which they of this society treated as good news; he says that one of them said he had the pleasure to inform the society that one of the king's messengers had been killed in the country; another said if it had been his own son he should have been glad; he says there were frequent intimations to take care of spies; that there was a proposition that ten should meet at one house—that is, nine of them to meet at the house of the tenth; they talked of blowing a spy's brains out. The witness was asked what he was, if he was not a spy—he says he was; that they were talking of a reform of parliament at the point of the bayonet; that that appeared to be the intention of this armed society from the general conversation.

Now the circumstance mentioned by this witness of the manner in which these people were shifting about under the direction of a Secret Committee, to be exercised in small numbers at different places, with the observation that was made in regard to Shelmerdine's frequently changing his men, with the apprehension that his men might not be staunch to the cause, certainly warrants very great suspicion that this armed society was forming for no good purposes, and that this is, therefore, a circumstance which does make part of the case which is now under consideration; for it is, I think, if this evidence be true, impossible to suppose that this was a regular volunteer society, who were only arming themselves for these ostensible purposes expressed in these articles; they state strange language to have been used by these people, you will judge what credit is due to that evidence; if they did use such language, it shows that their minds, at least, must have been in a state of very great irritation, and that they had designs not fit for honest men to entertain, and which must create real apprehensions in the minds of all those who know that such designs were conceived by such men.

Edward Gosling, who was also a member of the Corresponding Society, says that upon the fifteenth of April, 1794, he was admitted a member; that Mr. Wickham, a magistrate, had desired him to be proposed; that he went to Hillier to inquire after a man he happened to know that was a member of that society; he says what led him to go to Hillier was, that having seen seditious pamphlets

there, he thought he might be able to learn from him where this man was; he says that he concluded from the circumstance of these pamphlets being sold there that he was a member of the Corresponding Society,—that led him to inquire of Hillier after this man; he says, he was proposed without any communication with the magistrate; but he attended afterwards in order to discover whether they really had any intention to arm.

He says that the division he belonged to was number eleven, meeting in Northampton-street, Clerkenwell, he did not recollect the sign, but the man that kept the house was named Holt; he says that there was some conversation about the meeting at Chalk Farm, which had been on the day before; that it was said to be necessary to arm for the purpose of defending the Convention as they had done in France.

If this was a fact well established, it would be a very strong fact indeed in the case, because when you once suppose the idea to be that the Convention was to meet without arms, to act peaceably and in order, and that the others were to defend them with arms, that would give that Convention a complexion to be sure of a very dangerous nature indeed, and would go a great way to warrant every thing that has been said of it. But you will remember that this very strong fact is stated by a man of Gosling's description, to whom some exceptions in point of credit lay, the weight of which you will weigh in your minds.

He says that the Convention was to be called in about six weeks; that they talked of repelling force by force, if Mr. Dundas should bring his Scotch laws into England; that the expression used was, "The infamous and ever to be detested Court of Justiciary in Scotland; he says that there were one or two hundred thousand copies of the proceedings and resolutions of that day ordered to be printed.

On the Monday after this, he says he was at another division meeting at one Morris's, a jack-maker's, in Brick-lane; that division, he believes, was called number sixteen and twenty-five; doctor Hodgson was recommended by the committee to be relieved; he says that he and Hillier went to see this doctor Hodgson, who, I take it, was at that time in Newgate; they found Lloyd, Roussel, and a captain Williams, an American, with Hodgson; there was a conversation with doctor Hodgson, he asked the witness if he had seen a copy of the new constitution, by which this Corresponding Society was to be divided into small divisions to learn the use of arms at one another's houses; that it was almost ready—that they were to be called tythings—that their object was, to keep spies from getting into the society; their numbers were increasing, and they would soon be irresistible. The witness observed that there were no men of property among them, to

which Roussel made this reply, that as soon as they were organized, money should not be wanting. That will also be a very strong circumstance in the case, if you should be of opinion that this witness is deserving of credit. He says that Lloyd gave a toast—"The world a republic or a desert." Doctor Hodgson said he hoped soon to see a Revolutionary Tribunal established in this country, for he hated all others; Roussel said he was going from thence to Thelwall's, and he should set off next day. Hillier asked if he was going to France, he said, yes.

The witness says he was that evening at the division he belonged to, the eleventh division, that one Wright, a delegate, was there; that when he was coming away, Wright asked him if he had got any arms? he said no; Wright told him it would be necessary that all should have arms, as possibly we might very soon be compelled to use them; he says Gordon was their secretary, that Gordon said he was going to America, that he was very sorry to leave the society just as they were going to act as well as to think, and to regenerate their country; that he should take some copies of their spirited resolutions to be delivered to the popular societies in America. Hillier mentioned his not having got a musket, but he said he had got a pike.

He says on the twenty-fifth of April he was at Hillier's house, number eighty or eighty-one, in Bishopsgate street; that there was a person there whose name he was told was Wicksly, and there was a drunken man there, and a man of the name of Bennet; Wicksly said he had received a letter from Sheffield, stating that there had been a numerous meeting there, and that they had determined to petition no more for a parliamentary reform; that there were some knives making of a particular construction at Sheffield; that the letter contained a drawing of the knives, that they were to be fixed to poles, and they talked of their use being to cut the reins of the horses; that the principal dependence of the society consisted in securing the royal family and both houses of parliament. Hillier said if they could resist the first shock from the army, there would be no danger afterwards: the king being secured, the army would have no head to look up to, and would be glad to accept the additional pay that would be offered them; that men would not fight for six pence a day if they could have a larger sum; he says that nobody objected to all this. He says when he was going away, Bennet went out with him into the street; that his conversation was so violent, and he spoke so loud, that he the witness checked him, for that persons walking by would take notice of what he said.

He says he knows Baxter, that on the ninth of May he had a material conversation with Baxter at Hillier's house; he says Baxter stated that he had been with Mr. Joyce, who was secretary to earl Stanhope; that Baxter,

Bennet, and Hillier were at Hillier's, and some other persons at a part of this conversation; Baxter said there was no danger to be apprehended for Stone, that is the person apprehended for high treason, for he had too much firmness to let them get any thing out of him; he said that the Committee of Correspondence and Co-operation were preparing an address to the army, with some strong resolutions, and he said that prudent and determined men were wanted to propagate the opinions contained in those resolutions; he said that one Moore had been particularly active and successful in getting over the army; that they had most to fear from the young recruits, they had succeeded best with the old soldiers; that if one-third of the army were got over, the others would not do much. Then the fact was mentioned of Baxter's having an interview with some officers; that Baxter said one of the officers said to him, why do not you blow them all up together.

He says, that Baxter asked him if he knew who would buy a pike, the witness said, he should have no objection to purchase one, but it would be of no service unless he knew how to use it; he says, Baxter said, if he would go the Thursday or Friday following, to the Parrot in Green Arbour Court, in the Old Bailey, and ask for one Edwards, he would be called out to him, that he was to tell Edwards that Baxter had sent him, then he was to have a pike, and that he would be introduced to others with whom he might learn the use of them, that Edwards was a very clever fellow, and could teach him, that pikes were much cheaper than muskets, that muskets could not be supplied on account of their expense—and that people might do mischief if they did not know how to use them.

The witness says, he observed they might have a parliamentary reform without coming to blows, upon which Baxter said; "Is there a man in the society, that believes a parliamentary reform is all we want? No, not one"—he said that many men of property had hitherto kept back on account of the sanguinary conduct of the French, but that they were now willing to come forward, as they were convinced a revolution might be effected in a few hours—that he, Baxter, did not wish the king or any of his family to lose their own lives, he thought they might go to Hanover, but that it must be expected that some blood must be shed, for some particular persons had offered such insults to the people that human nature could not overlook.

He says the conversation afterwards turned upon Thelwall's having been indicted, in which there was nothing very material.—He said he attended most to Baxter's conversation, because he was informed he was one of the Committee of Correspondence and Co-operation. Baxter said many thousand pikes were making at Sheffield, that the heads were only to come from thence, and that they were



to be stocked in town; he recommended that nothing of that should be mentioned at any of the divisions, till the new constitution should be adopted, for there were spies in the society; that it would be advisable to let the French prisoners out, if the emigrants resisted, that the emigrants should share the fate of the Swiss at Paris. He mentioned the names of Mr. Pitt, Mr. Dundas, Mr. Reeves, and other persons who had offered such insults to the people that human nature could not overlook.

He says, in going home with Baxter, he understood from conversation he had with him, that the address to the army, was to set the troops and the emigrants, to be embodied, at variance, and they were to say to the army, that they had sworn to fight for the king and country, and if they were at variance, they might choose which side they pleased; that it would be proper to enlarge upon the severity of their usage, and the smallness of their pay, but they must first sound their principles, and if they found the soldiers were Aristocrats, then they must not go on. He says that with respect to all these circumstances, he communicated them from time to time to Mr. Wickham, that he gave him intelligence of what passed.

On his cross-examination, he is asked what situation he was in, he said he kept a broker's shop—he is asked if he did not deal in king's stores, he said he did say to a man to whom he was unwilling to give his name, that he dealt in naval stores, thinking that would put the man off from any farther inquiry—he says that he is employed by a magistrate, in Worship-street, which occasioned him to say that—he denies that he lived by smuggling, and cheating the king in his stores.

He was asked if he ever went by the name of Douglas; he says he did for six years, while he carried on the business of a hair-dresser, which is ten years since, in Petty France, at No. 3. He says his father had a shop of business in the city, that he wished to go out for improvement, and did not like to appear as a journeyman, when his father kept four or five men in his own house; that his taking the name of Douglas, was a mere accidental circumstance.

He was asked if he knows a Mr. Lincoln, who collects rents for Mr. Macnamara; he says he does, and that he borrowed from Mr. Lincoln, four or five years ago, ten pound, or ten guineas, and gave him a note for it, in the name of Douglas, while he bore that name, which has been since paid. He says Mr. Macnamara came to him to the coffee-house, where he and the other witnesses were; that he behaved so ill to him, that he was much hurried, and did not know what he said; that Mr. Macnamara came to the coffee-house to him, and said that the note would appear against him if it was not paid.

He was asked whether he had not by inflammatory expressions, excited these people

to say the things which he had stated—he says that he may have appeared to have approved of what was doing, but he never did approve of it—particularly that he never said, “why don't the society learn the use of arms.”

He is then asked as to a Mrs. Coleman, who had lived with him, and died in his house; he says he made her will, and that no part of her property was left to her relations—he is asked if a brother of a former husband had not made some charge against him—he says he never heard any complaint, or any charge against his conduct respecting the will, but that a brother had come up to make a claim. He is asked if he knows one Cox, a cheesemonger—he says he has dealt with him, and he did not use him very well, but nothing turns upon that, for he is not called.

Then there was a print produced, which was found upon Roussel, it is an engraving of the manual exercise of soldiers, with caps upon their heads, intended to be painted red—you understand that it is the cap of liberty now worn in France, and is a sort of signal, by which men who entertain these opinions may be known.

Gentlemen, I stated to you before, that this witness has given very important evidence, tending to show the determined purpose of this Convention to use force against the king, his family, and the government—If this man's evidence can be depended upon, he certainly states Baxter to use very strong language, so indiscreet, that one could hardly have thought that a man would have ventured to use—and on the other hand, the observation made upon this, is certainly founded, that this man is not contradicted with regard to the testimony that he gives, and that all they rely upon to shake his credit, is what turns out upon his cross-examination—the account he gives of himself, of his having told a man that he dealt in naval stores, for a vile purpose—having borne the name of Douglas—having acted about in that sort of way, and going there for the purpose of giving information to government. Gentlemen, it is your province to judge what degree of credit you think fit to give to this man's evidence.

The next witness, is John Groves—he is another man, whose credit is more directly impeached than Gössling's has been, who also speaks materially, if his evidence is true. He says he was at the Globe tavern, on the twentieth of January, 1794; he became a member early in the month of February, he was desired to become a member, in order to make a discovery; he says there was a very large assembly, he believes Mr. Martin was called to the chair, who read an address, and Mr. Richter read it over again; he does not recollect any particular toast which was drank, but a great many were read; and by a paper that was printed, he should be able to refresh his memory—he says in general, the conversation was universal suffrage, and annual tax-

almost all other functions of the government; that he recommended a convention, in order to procure annual parliaments and universal suffrage; and that he recommended a new modelling of the House of Commons.

He says, he was at Chalk-farm; Hardy was there; that Lovett was in the chair; that there were printed papers dispersed; there was a letter from the Corresponding Society to the Friends of the People, earnestly soliciting the concurrence and assistance of that society, in assembling a convention of the friends of freedom, for the purpose of obtaining, in a legal and constitutional method, a full and effectual representation; he says, the answer was read from the Friends of the People to the Corresponding Society, dated April the eleventh, 1794, and then their letter; a number of resolutions were put, and two hundred thousand copies ordered to be published.

Groves says, he went to a house in Store-street, Tottenham Court Road, where the meeting was to be held; he went part of the way with Thelwall; he says there was a written paper upon the door of the house, in Store-street, stating that the meeting was to be held at Chalk-farm; he says, Lovett was in the chair; the principal persons who spoke and acted at that meeting, were Lovett, Richter, Thelwall, and Hodgson; that Thelwall made two or three speeches; he says, there was a clamour went round that there were spies and informers there; Mr. Thelwall said, he was for admitting all spies and informers there, because the number of the members of the London Corresponding Society could be no agreeable news to the minister; he says Richter read the resolutions; that Richter stopt reading to make some ob-

opened, it prevented its joint; it was fixed straight forward one; somebody said, they cheese knives; upon that was a smile; he says, he had as harmless instruments, as where they were to be had might have some of Green; Green was to be found; the perfumer and hair-dresser, Leicester fields.

He says he went to Green knives; Green said, he had and three hundred; that G speak very low; the parlour which was adjoining the shop and said, for my wife is a d that he attended the meeting Pearce, when they were at if you strike with them, a knives, they will not fly by that purpose; he says a man found fault with the const knives; he said they might that they were not equal to

He says, he was at a meeting which application was rejected of the violence of his conduct another reason, if the witness right, that he was not considered; he said he was present and Anchor tavern, upon May; that there was a dinner February, when an address was read; that was division number three, in Compton-street so late as the fifth of January be proper to read that paper.



came, while they were there, of some public event; he understood it was very bad news; that it seemed to give universal satisfaction; that there was a song, called "The Free Constitution," delivered out before dinner, and there was a paper on each plate, but he does not recollect what it was; he believes Mr. Wharton was in the chair; that Mr. Horne Tooke was there, and the prisoner Hardy, was there; that when the company came into the room, the French popular tunes were struck up, and encored, and they played almost the whole of the dinner, the *Marseillois march*, *Ca ira*, and the *Carmagnol*, and that it was a continual scene of clapping.

He says, that after dinner Mr. Horne Tooke addressed himself to the company; he prefaced his address by an observation, that he supposed one out of fifty, in the room, might be considered as a government spy, and to them in particular he wished to address himself; and the witness says, in consequence of his addressing himself to government spies, he did attend to what he said; he begged the company to take notice, that he was not inebriated, for, having something to say to the company, he took care to refrain from his glass; and for fear of being mistaken, and being taken to be in a state of intoxication, he begged every body present to take particular notice of what he said; he called the parliament a scoundrel sink of corruption; and the opposition he called a scoundrel sink of opposition; that a junction between these two scoundrel parties was formed, for the purpose of destroying the rights and liberties of the country. He spoke about the House of Lords, the hereditary nobility; he asked if that skip-jack, naming a particular lord, could be considered as one of the hereditary nobility; he said the same of the House of Lords as of the House of Commons, he said the juncto between the two parties was in order to amuse or abuse that poor man, the king; he said, that the junction of parties in the House of Commons, was in order to abuse and deceive the people of this country. He says, Mr. Tooke's speech was received with great applause; that there was a song sung, to the tune of "God save the king," but not those words: he says, that Mr. Horne Tooke sung an additional verse of the song; he had forgotten what that was.

Upon his cross examination, he says he follows the business of a conveyancer, and has done so two and twenty years; he is not an attorney; he was asked, whether he was a solicitor; he said he did not understand what was meant by the question; at last he admitted, that he was a solicitor, in this place; a solicitor for prosecutions and prisoners; he said, when Thelwall and he conversed, that Thelwall rather fixed himself upon him, than he upon Thelwall; he said there were a number of very respectable gentlemen, at the Crown and Anchor; that Mr. Tooke spoke highly of the hereditary nobility of the

country; he said, they had lost their weight in the state, by the introduction of the new nobility, who had been introduced into the House of Lords, by means of their conduct in the House of Commons; he said he spoke highly of the office of the king, in the constitution; he said, that the new made peers, or those lately introduced into the House of Lords, either had combined, or were combining, for the purpose of amusing that poor man, the king; that the king had lost his true weight in the constitution, by means of this corruption; he says the object of all his conversation was, that improper people were brought into the House of Commons, and that thereby the evil complained of arose.

They then read a song, which was found at Hardy's house, in a letter addressed to Hardy, without date; that song must be read.

[See p. 761.]

Gentlemen, I would observe to you, upon this song, what perhaps may occur upon some other parts of the evidence. It was fairly observed, on the part of the prisoner, that there is a great deal of difference between this sort of loose paper, found at his house, in the situation he was in, as secretary to this popular society, to whom, therefore, all sorts of things would of course be addressed, which, perhaps, it would be prudent to destroy; but every man is not, in that respect, quite prudent; that there is a vast difference between this sort of thing, and a paper which had been communicated, and acted upon, and made thereby the act of the party himself, by his own conduct upon it; the evidence could not be rejected, because the keeping such papers is some reproach to a prudent man, and affords some evidence of the improper connexions he forms, in consequence of which all these sort of licentious things come to him.

The next witness is John Thompson, who proved the finding a pike at Hillier's.

William Camage is then examined again; he says, that he saw Margaret in the Tolbooth, at Edinburgh; that he had a spring knife upon his table; that it was hard to shut, and by his description, something like these Sheffield knives; he says he never saw one at Sheffield; that this knife lay publicly for him to get his dinner with; there were six or seven people present; and it was showed to him as a curious knife.

George Lynnam says he became a member of the Corresponding Society, in October, 1792, of the division number twelve, at the sign of the Mansion House, opposite to the Mansion House; he says he received the rules of the society, and the address of the society, in March, 1792; having received these papers he intimated to the master of the house, that he thought it would be dangerous for him to permit the division to come to his house; that he, therefore, declined to let them come to his house; he says the division adjourned to the Crown in Newgate



street, and he was accepted as a member of this society, upon the twenty-ninth of October; he says he was at the Unicorn, Covent-garden, at the division number two; that I take to be Hardy's division; that there was a large meeting; the room was full; there might be seventy or eighty people there; Hardy appeared as secretary; he says Paine's Address to the French nation, was voted to be published, and delivered out to all the divisions; that a paper called the Rights and duties of Man, was to be continued weekly; that the delegates had received addresses, approving of the society's address to the National Convention; that the delegate of the division reports to the division what is done at the committee of delegates.

It will be proper here just to observe how that stands.—By the constitution of this society it is divided into a great number of sub-divisions, as many as they have opportunity to make, consisting of not less than thirty members in a sub-division; each of these divisions choose a delegate to represent them in a general committee of these delegates; which general committee of delegates act for the society at large; and all such matters as are thought proper to be communicated to the divisions, are brought back to each division by the delegate of that division, and communicated there.—That is the way in which this machine is framed and carried on.

The witness says, upon the thirty-first of October he was at the division, number twelve, at the Crown in Newgate-street, when the Address to the French Convention was read, it having been brought forward before at a committee of delegates. On the second of November, at the Rainbow, in Fleet street, there was a meeting of division, number eleven. There was a report that the society at Stockport had written to Sheffield, that they approved of the different meetings. There was a letter, which was a pretty long one, in which it was said, that it would be a good thing to send, as he understood it, the London delegates down to teach the farmers politics; this letter was by the editors of the Sheffield paper, intituled the Patriot, and this was written to the delegates; this is afterwards produced, and it corresponds with the witness's note; it is much fuller than his note, but as far as his note does go, it corresponds pretty much to the paper; only instead of sending delegates from London to teach the farmers politics, the proposition was, that the societies should send delegates from their respective societies into the country in order to enlighten the minds of the people.—He says, there were six honorary members of the London Corresponding Society admitted to the society at the Crown and Anchor.

A certificate of Hardy's election to be a delegate was then produced; it was a paper found in his possession.

Lynam then went on with his evidence:—he was at a meeting upon the twelfth

of November, at the Unicorn, of division number two; there were very loud plaudits at the reading a letter from Barlow to the convention of France—(he says, it was either Barrère or Barlow; he seems to give but a blundering account of that, it certainly was quite another sort of thing).—He says, the number of the society in London was stated to be six thousand; it was observed, that the divisions in Spitalfields were increasing, and soon would be equal to all the other divisions of the society.—There was a letter from major Johnson, from Edinburgh, disapproving of the address to the Convention so soon—he says, that the address which they had ordered to be sent to the National Convention in France, had been ordered to be published in France, and sent to the eighty three departments in France.—The society at Sheffield had sent up their address to the committee of delegates, who had forwarded it to the National Convention of France. The next meeting was on the twenty-first of November, of the division number twelve, at the Crown, in Newgate-street; there was a talk of a congress to be held in Scotland.—A charge, which had been delivered by Mr. Justice Ashhurst to the grand jury, was read.—It was reported that the society at Norwich wanted to know if they meant to come into the duke of Richmond's plan, or to rip up monarchy; they suspected this was to draw them into some unguarded expressions, and declined answering.

Gentlemen, you recollect, that letter was read, and that when they did answer it, the answer was more guarded than some of the letters of the society; it was such an answer as might naturally lead one to think that there was some suspicion; it is a curious circumstance, that in the notes of this man, who attended the divisions regularly, and took notes as being a delegate, it should be noted that they suspected that letter from Norwich did not come from a friend, and that it was meant to draw them into some scrape.

He then speaks of the branching off of a new division, number twenty-three, from number twelve; and this new division met at the Ship, in Moorfields, on the twenty-seventh of November—he says, he was chosen a delegate of this new division he was recommended by his division; and it was proposed at that time that the public should be informed that they were not levellers, and that they wished to avoid all riots and all resistance; that this arose from the magistrates having interfered with their meeting—that the conversation was, that the first characters at Edinburgh belonged to the cause, had formed themselves into a society, and called themselves a Convention of delegates.

Upon the twenty-ninth of November, he says, he attended a meeting of delegates at the Sun, in Windmill-street; there were twenty-two delegates present.—His notes are, that division eleven had received twenty

tors from Islington; that a society was intended to be formed there. The sub-committee brought forward their answer to the Crown and Anchor Society, which was referred back, and another answer was offered, drawn by a gentleman of the name of Vaughan, counsel for Vaughan, who was a visitor then from the Constitutional Society, and this was approved with some alterations; the words "dying in the cause" were struck out; it was directed to be put in the Sunday's paper; and that five hundred bills should be pasted up, that they were not levellers—and if their funds were low, Mr. Vaughan said, the Constitutional Society would print for them.—They understood that enemies were getting into the society; that five divisions had been scouted, as he called it (that is, driven from the places where they met)—that Margarot proposed to write to Mr. Pitt and the attorney-general, that if their meetings were illegal, he would be ready to surrender himself, but this was over-ruled; and it was resolved to support all prosecuted members:—he said, he wrote this minute at the time.

He was then shown a note, which he says, he received from Hardy; it is in these words—(addressed, Mr. Lynam, No. 31, Walbrooke; dated December the 4th, 1792)—"Citizen Lynam; you are requested to meet the Special Committee this evening, at seven o'clock, at the Nag's Head, Orange Street, Leicester Fields. I am, your fellow citizen, "THOMAS HARDY."

"Please to inform any of the delegates near you, that you know, but no one else."

This is a circumstance, in some degree, confirmatory of Lynam's general evidence.—He says, he went, but he has no memorandum of any thing that passed.—On the eleventh of December he was at the division, number twenty-three; it was reported there, that the London Corresponding Societies' rules had been introduced among the soldiers.—It was reported that the Irish had been scouted as we had been, and that they had applied to the council, who had declared their meetings to be legal; that he understood by that, the privy council.—He says, their funds were low, and the divisions were recommended to subscribe to the publication of the Address; three of this division offered to stick the Address up about the town.—It was reported, that Baxter, who was a delegate of the division, number sixteen, was at the meeting at Shoreditch church, and that he opposed that meeting, and that he was laid hold of; and in consequence of that, seeing that he could not resist, he threw some of the Societies' Addresses among the people assembled there; and he complained he was very ill-used, his coat torn, and he was struck several times in the church-yard; he said, it was a meeting to support the constitution.

Upon the thirteenth of December the delegates met in Round-court, in the Strand; eighteen persons were present; Hardy was

one.—It was reported, that the magistrates were after Littlejohn.—One Field was chosen assistant secretary.—There was a motion from the division, number four, that a letter should be wrote to the Common Council. He says, that Ridgway was to publish Margarot's letter to Mr. Secretary Dundas: the project was, that this letter was to be written and carried to the post office by Margarot and two others.—The letter was dated the fourth of December, 1792; and that they might be sure it was sent, they took a receipt from the post office. The letter to Mr. Secretary Dundas was read, recommending a reform, and to protect them from all interruption.—That letter must be read.

[See p. 771.]

Lynam says, his note goes on to state—That division, number one, recommends that it be represented to the public, that confusion may be expected, but that if riots ensue, our societies will aid the magistrates, and that copies shall be sent to the magistrates; but take care that we say, that no disposition appears of committing any riot, and that we will persevere in a parliamentary reform; but if prosecuted persons were not found to be rash in words or violence, that it is proper for the society to protect them—he says, I do not know whether any thing was done upon that; there were many things agitated in the committee.—The delegates of the division, number two, Hardy's division, proposed to bring forward new-shaped cards of admission.—A letter from Norwich, signed Cosens, was read, mentioning meetings being held there, as well as in other places, to support the government; and asked whether the London Society had signed to support government.—Margarot proposed, that should not be communicated to the divisions: what the reason for that was, is not clear. There was a letter, dated the fifteenth, from Paisley, expressing their willingness to correspond with us, and mentioning twelve societies formed in August for a parliamentary reform. There was a letter from Edinburgh, of the eleventh of December, to call a convention of all Scotland, to be of the same opinion, and the title of the Society was—"The Friends of the People"—Archibald East Hodge, president; William Read, secretary.

He says, that division, number thirty-three, met at Crown Street, upon the eighteenth of December; nothing passed there. Upon the twentieth of December, the delegates met at number thirty-one, Compton Street; Hardy was present; two members were deputed from the Constitutional Whigs to know if the Corresponding Society would concur in an Address to the Friends of the People. Division, number twelve, recommended to petition parliament before Mr. Grey brings in his bill for parliamentary reform—Martin recommended not to publish any thing; that the times would not do; that they could not stand against the

treasury. Number sixteen moves for the delegates to determine if they should sign the Address at the Crown and Anchor: and this was left to every man's discretion; that is the address that had been formed there, by another party, in support of government; the question was, whether they should sign that Address; and this was left to every man's discretion, but to avoid it, if possible. Margarot wrote to Cozens, that we will not sign at any of the meetings.

There is a communication from Norwich, that five guineas had been sent up, in order to have Mr. Fox's speech on a parliamentary reform, sent down to the persons from whom the money came; and they were to publish some hand-bills, to express a determination to persevere. Five hundred copies of Mr. Fox's speech were sent accordingly. Division number sixteen proposed to give tickets to soldiers, to admit them gratis, if they chose to enter; but that they shall be warned of their danger: this was not agreed to. Division number twenty-four moved to publish our determination to support the magistrates, and persevere in a parliamentary reform: this was agreed to; and Margarot was desired to draw it up. A petition from Carter, who was employed to stick bills up; that he lost a place of twelve shillings a week. Martin had been directed to defend him; and there was a subscription to defray the expense. Ridgway had communicated, that he was ready to publish any thing the society chose to send him. It was observed by Margarot, respecting Mr. Fox, that he had gone as far as could be expected; but that they were not obliged to him; for he was forced to avow what he had done. Martin reported that Gay had employed Carter to stick up bills; and that he had stuck them up in the morning, instead of the evening, as he was directed; in consequence of which, he was taken up. The next is number thirty-one, Compton-street, a meeting of the delegates on the twenty-seventh of December. The prisoner was there. Each delegate was to take the sense of his division, on the propriety of admitting soldiers, and on what terms.

He says, upon the third of January, 1793, there was a meeting of delegates, at number thirty-one, Compton street; Margarot was chosen president; Hardy, secretary; Field, sub-secretary. The distresses of one Thompson's wife were laid before the meeting; he was a member, but had gone away to France; twelveshillings and sixpence was collected for her. There was a motion came forward, for a declaration to the public; two divisions objected to it; the declaration was proposed to be published; the objection was, because the declaration said, rather have a constitution without a king, than a king without a constitution: it was observed, that this would be a thing proper to be said, if they were republicans. Margarot  
—wrote  
a letter. I

from the Roman Catholics in Ireland, who were of the same mind with themselves; and the application was to them, to see whether a communication could be opened with them. Hardy was present.

The next is a meeting at the division number twenty-three, January the eighth, in Crown-street, Moorfields. He says, I have got down here, that the declaration—I suppose the declaration mentioned before—it is the opinion of this division, that it should be rejected; it was agreed likewise, not to address the king at all. It was said, Mr. Grey would not bring forward his motion for a reform, unless petitions were sent to parliament; agreed to petition parliament by all means, and not to address them.

The next is a meeting on the tenth of January, 1793, at number thirty-one, Old-Compton-street; seventeen delegates attended, of whom Hardy was one; the declaration was ordered to lie upon the table; then it was agreed upon, that no written paper be brought in, but by a delegate, or through the treasurer or secretary. Margarot reported, that the country correspondence did not shine; there were very few letters; he reported that he had sent a letter to the Friends of the People, at Free Masons' tavern: the answer was read: that they expected to obtain an effectual reform; they were desired not to mix foreign politics with home politics, and to avoid foreign correspondence. It was remarked, that this society, that is, the society at Free Masons' tavern, never brought forward their principles; and it was determined not to correspond with them. Bell observed, that the address to the National Convention of France, proves that we mean their laws here; to which, according to this minute, Margarot said, no doubt; others said nothing.

That, you see, is the most material of all these papers I have hitherto read to you; that, in the course of the conversation at this meeting of delegates, respecting their address to the National Convention of France, Bell said, it proved that they meant the French laws should be established here; to which Margarot said, no doubt; the others said nothing; Hardy was then present.

He says, it was observed, that a plan which had been proposed, of the addition of a hundred members to the House of Commons, will not do; it will give them more advantage, and keep us from a proper reform. It was reported that one of the Irish delegates had agreed to correspond. At a meeting on the 14th of January, at Hardy's, Hardy said, he had dispersed fifty of our addresses, and twelve of Keirsant's speech.

The next is a meeting of delegates, on the 17th of January, at number thirty-one, Compton-street. It was reported that nineteen of the divisions were kept up. It was agreed that they were to debate, and consider whether  
—wrote  
eighteen, or twenty-one, was the  
voting for a member of parlia-



ment: it was argued, it should be eighteen, because, at that age, they are liable to be militia-men. Division number twelve recommended to consider of a public meeting, to discuss parliamentary reform; that was referred back again, for further consideration. Number four proposed thanks to the mayor of Glasgow, and to the society of Durham and Dundee, for uniting with the society. There were sixteen delegates present. A petition from Carter was presented, who had received sentence for sticking up a bill, supposed to be a libel. A special committee appointed to examine how his defence had been conducted. A motion was made for all the delegates to meet on a Saturday evening, to discuss political subjects. A letter was received from Norwich; the Friends of the People want to propose a mild reformation; and this society of Norwich want to know whether they are friends. One Hobhouse had formed a society at Bath, and proposed a correspondence. Then it was proposed to correspond with the Norwich Society, through the means of the Bell Society.

He says, on January the 24th, there was a meeting at number thirty-one, in Compton-street. Two gentlemen came with a petition from Thompson's wife. Martin thought it should be rejected. There was a conversation about the defence of the bill-sticker, and also an account of what counsel had been applied to, and who did undertake the defence; there was an anxiety about the manuscript of this bill which had been stuck up, which had got into the hand of Grant. A letter from Richter, that he did not dare attend. The delegate number five is going to France, with some copies of Paine's works; he had private notice that they would all be taken up.

Upon the 31st of January, Baxter, the delegate from number sixteen, proposed that, in future, of the quarterage money six-pence should go to the society, and the other seven-pence to go towards the expense of the room; it was agreed that this might be a very proper measure to be adopted for the poor divisions, but not for the rest. It was remarked, and assented to by all, that, supposing there should be an opposition, and the two parties should come to an open rupture, it would be proper to encourage the two divisions, number sixteen, and number twenty-five, in Spital-fields, because they were very numerous, and it is necessary to keep them together. These are the divisions before mentioned to be as large as all the other divisions put together. This last remark, he says, he makes from his recollection. Number seven proposed to publish a letter, which had been written by a Mr. Law to Mr. Reeves respecting the business of an association; but this was rejected; and another publication was proposed. The reply to the answer of the Friends of the People, objects that they were not explicit; and they want to know how far they mean to go with their design; and Lynam's note is,

that they were apprehensive of a breach. The general sense of the Friends of the People did not go as far as the London Corresponding Society, or Constitutional Society, who thought that it must come to a struggle: this, he said also was recollection. Margarot said, they were getting on fast again; a petition is not the mode. Then comes a material passage—but yet, it was agreed a petition should be presented, to keep the public mind agitated upon the subject of reform.

He says, upon the fifth of February, the division number twenty-three, met in Crown-street. It was reported, there were sixty friends to the cause, who declined, at present, meeting the society; but they are good friends, and wish them success; that there were certain religious societies in the kingdom, whose sentiments led strictly to republicanism; they were numerous in several of the great towns; naming them; and particularly in London: and that the societies in London were just now beginning to organize themselves agreeably to the principles in France, and that they were to meet on Mondays and Thursdays. It was said that Paine's works had been published in Sweden.

The next meeting was on the 7th of February, of the delegates, at number eight, Queen-street, Seven Dials. The prisoner, Hardy, was there. They were anxious to preserve the divisions, sixteen, and twenty-five, as poor divisions; these were Baxter's divisions; that they would be of great service, if we should go to war; this was an observation of Margarot's. Many said, it was eventually expected that there would be a rising in the country. A letter, sent to Bath, has been gone fourteen days, and no answer, though two letters have been sent. A Sheffield letter, of the 16th of January, by order of the Constitutional Society, had been conveyed to all the societies, requesting to know how far they mean to go; and all were of one opinion not to petition this year. Hardy was present, and proposed that there should be a delegate from each division of the society, to agree how to proceed. Mr. Fox has observed, in the House of Commons, that the people have a right to alter the government when they please; the Scotch and the Irish have done it. The London Corresponding Society were first formed to send a delegate to all the other societies, to determine the best way of reform. The Friends of the People, in the Borough, still exist, and were determined to communicate with this, and other societies, and inquire into their intentions. It was agreed that a circular letter should be sent to all the societies in London, to meet, two or three from each, and come to some determination. The question to be debated at each division, What is the best way of proceeding?—and that meeting to be advertised. It was determined to write to Sheffield, to inform them, that we will answer them very shortly, how we mean to proceed.

Upon the 14th of February, 1793, the division, number twelve, chose Mr. Godfrey as a delegate, who was rejected, being lord George Gordon's attorney. My note is, that there was another man in the division, connected with lord George Gordon, who was rejected. To be determined at the next meeting, whether they were to petition parliament; and the observation is, that it will engage the public attention for the present. Agreed to demand a conference with the Constitutional Society: they are drawing up the state of the representation, and are going as far as us. The Friends of the People do not go so far. The Borough Society does not go so far. Holborn Society say, they are for Republicanism. The Aldgate Society is broken up; and most of the members have joined the Corresponding Society. There were about six societies in London to confer with. A letter sent to the Constitutional Whigs at Sheffield, saying, there will be a conference about this matter, and that they will write to them. Three questions would be proposed for consideration—whether to petition the king—to petition parliament—or to call a convention. It was remarked that it would be well to decline coming to any resolution till the whole nation are agreed. Margarot says, they should neither petition nor remonstrate; it would be unconstitutional. Reported that the Aldgate Society had thanked Mr. Fox for his speech, saying, that the people might alter the constitution, without giving their reasons.

The next is a meeting of division number twenty-three, held on the 19th of February, in Crown-street. The question was agitated, which was the right age for election, eighteen, or twenty-one; which was put to the vote. Came to a determination to petition parliament.

On the 21st of February, the delegates met at Compton-street. Godfrey, who had been rejected and re-chosen, was rejected again, but insisted he would not quit the place; therefore they had no other way of getting rid of him, but by adjourning to Charles-street.

On Saturday evening, the 23rd, it was reported that a great number of delegates were in town from different societies in Scotland, upon a reform.

The Constitutional Society have adjourned till the 15th of March, to see what Mr. Grey would do in parliament. Agreed to write to all the societies, to present a petition to parliament; that their's was to be prepared immediately; and it was expected they should have twenty thousand names to this petition. If this petition was rejected, they would write to their friends to continue, and then will be the time for all to unite, and to petition the king. The Friends of the People approve of Mr. Grey's remonstrance. Reported that the bank's refusing to discount would assist the

people, to subscribe to a book against

imprisonment for debt; they refused to subscribe; but they agreed they would take extracts from it, that were worth publishing. There was a letter signed Jeremiah Carter, or Curtis, the 15th of February, in answer to a letter of the first; and there was an answer to the Norwich Society, that they think the Friends of the People are friends to the cause.

On the 28th of February, there was a meeting of the delegates, at Mr. Stiff's, in Peter-norster Row. Margarot proposed: thanks to Mr. Fox and the minority, and to lord Lauderdale, and that this should be advertised in the newspapers. Letters from Sheffield, inclosing their resolutions passed on the 16th of February, by order of the committee. The witness gives Extracts of the letters agreed to write to the Sheffield Society, that a petition to parliament, though it won't succeed, at this time it will answer a good purpose. The London Corresponding Society are going to petition, and write to all the societies in this kingdom, to do so; it will cause the subject to be agitated every week; no time to be lost; and say, we equally lament the war; Gerrald proposes a petition from the London Corresponding Society to be sent by Margarot to Mr. Fox to be presented.

On the 7th of March fourteen delegates met, Hardy was there; a petition to parliament produced, read, and referred to the divisions; on the 28th of March new delegates are to be chosen; Mr. Freind's pamphlet on the war to be reprinted, and each division to have one; a petition to be drawn out on rolls of parchment, each delegate to have one, and to try what coffee-houses will take it in to be to receive signatures. Upon the 21st of March, Baxter reported that there had been constables at his division; a letter dated the 15th of March, from the Birmingham Society to Hardy, of which he gives extracts beginning Citizen Hardy; reported that the Friends of the People had received two letters from the Friends of Freedom; Grant and Littlejohn were dismissed from their situation as honorary members of the Constitutional Society—that society wrote to this society for other honorary members; Grant was discharged because he refused to give up the manuscript; Margarot made a motion to print a thousand of Freind's address to Republicans and Anti-Republicans, to make extracts and strong remarks by Margarot. Upon the 28th of March there were seven hundred and eighteen signatures, and five skins are not yet brought in; a select committee chosen to make new laws and to form divisions; a select committee to consider of future regulations for the society at large, and for the constitution of general principles. On the 11th of April two thousand had signed this petition; wrote to the Friends of the People, thanking them for their impartial state of the representation; small bills were to be stuck up in the night, informing the people where the petitions lay for signatures.

On the 29th of April there was the anniversary dinner of the Constitutional Society, at the Crown and Anchor tavern, Lord Sempill in the chair. The witness says they talked very boldly, and laughed at the fears of the public, and were sure a revolution would take place in this country. Then come the toasts—the Rights of Man—may Despotism be trampled under the hoofs of the Swinish multitude, &c.

On the 2nd of May, a delegate meeting, number thirty-one, Compton-street, eleven delegates present;—Mr. Fox wrote to Hardy that the petition which had been brought to him went to a radical reform, by which would be understood universal suffrage, which he was not a friend to, but he would present the petition if we desired it; they then desired Mr. Francis to present it; two of the Sheffield delegates that brought their petition were made honorary members; Mr. Fox's note was produced, but nothing turns upon that.

At a meeting on the 16th of May, number seven proposed to draw up a remonstrance against the war. It was said Hardy had received an anonymous letter.

At a meeting on the 23rd of May, twelve delegates present. It was proposed to call a general meeting; there was a letter from Littlejohn on the 18th of May—proposed to have a committee to prepare an address—notice was taken of Le Brun's letter to Lord Grenville; this might be thought to have come from some communication with France, and they waited to see what notice would be taken of that letter. On the 30th of May, Hardy moved to break up for three months, which was not carried.

Upon the 6th of June a public meeting was advertised five for six; thanks were voted to Mr. Wharton for his speech—agreed to be printed, and comments to be made upon it; Margarot to get a thousand copies of Mr. Wharton's speech. The witness says he ceased to be a delegate from the 15th of June.

He says he attended division twenty-three on the 25th of September—reported that there was a new society at Coventry, which was increasing, and that there was a new division of the Corresponding Society that met at the Grove, in Bandy Leg Walk. It was stated that Cruden, of Walworth, had written that offensive paper called *La Guillotine*; it was remarked that he was supposed to be employed by the Convention in France. It was reported that there was a petition to the king brought forward at the last meeting of delegates, but it was declared by Mr. Vaughan to be treasonable; in consequence of which another was prepared; eighteen new members were made that week; Bell was going to Ireland, and would establish a correspondence there; a petition was brought forward against the war; Hodgson was chosen president, and Hardy continued secretary.

On the 24th of October there was a meeting in Hackney-road to elect two delegates to be sent to the convention in Scotland, Margarot

and Gerrald were elected. On the 5th of Nov. it was reported that Hodgson had resigned, and that Baxter was chosen chairman; that Margarot and Gerrald went to Scotland on the 30th of October; that the funds were low, the subscriptions not equal to the expenses; that another delegate be chosen from each division, to form a sub-committee to revise the constitution; report of a new society formed at Bristol; that colonel Macleod and Sinclair were gone as delegates to Edinburgh from the Constitutional Society.

Then, gentlemen, you heard of an association at Lambeth, to learn the manual exercise; the plan was not matured; these were members of the Corresponding Society, who were desirous of learning the exercise. That memorandum respecting the association at Lambeth is so far material, that it speaks of that association as a thing that had been only then heard of for the first time, and had not originally proceeded from the committee of delegates.

On the 12th of November a division meeting, number twenty-three. Read a letter from Norwich approving the convention at Edinburgh; that the finances are very low, and a second subscription is wanted to support the delegates in Scotland. There is a kind of memorandum, or sort of instruction for the delegates; a letter is sent to the delegates requesting them to visit all the societies in Scotland. The witness says, that at first he thought that what was said of the finances related to the Norwich Society; but looking again he rather thinks that it relates to his own society; reported that there was to be a second general meeting to be held at Edinburgh, but afterwards it was altered and intended to be held at Glasgow: there was a letter read, dated the 8th of November, from Hardy to the delegates in Scotland.

On the 2nd of January, the witness attends again as a delegate; they resolved to remove the committee room to number three, in New Compton-street; that no person who had not belonged three months to the society to be elected a delegate; agreed to draw up a handbill approving of the conduct of the delegates in Scotland, and censuring the justices; to distribute a thousand in Edinburgh; a letter was read from Sheffield, signed William Broomhead, chairman, recommending them to come to some spirited resolutions to be adopted for the support of the delegates immediately; it was said that at this meeting there were about two thousand.

The next meeting is the 9th of January; he has not got Hardy's name down at present, but believes he was there; there was to be a general meeting on the 20th for dinner at the Globe; a sub-committee was appointed for the management of this meeting, the names put down for stewards were, Thelwall, Franklow, Agar, Kydd, Lovett, Harrison, Stiff, Peacock, Harris, Sinclair, Powell, Williams, Mitchel, Pearce, Moore, Moffat, Max-



the floor gave way; he was there before the business began; they went to a room above stairs, there were Martin, Ramsay, Richter, Thelwall, and Hardy there. The short-hand writer reported Margarot's trial; an address to the nation was carried, and then they adjourned to dinner, Thelwall was chairman; the witness dined in an adjoining room; the witness came again into the large room soon after he had dined.

There was a meeting of delegates at number three, New Compton-street, on the 23rd of January; the prisoner was there—agreed that hand-bills be stuck up, saying what grievances we wish to redress. The next thing that came forward was a box for the subscription for the support of the delegates in Scotland; it was opened that night, the amount was 13*l.* 4*s.* 5*d.* and nine had shillings; it was proposed to publish the names of those who had given evidence against the patriots; this was objected to by Thelwall, as it might produce massacres. It was proposed at that time to choose two sub-delegates to attend the perpetual committee to watch the parliament every night; this proposal was not carried; it was proposed that the committee should be made perpetual.

Upon the 30th of January, a meeting of delegates, Hardy being present, division number eleven recommended to divide the metropolis into divisions; number thirteen moved to recommend it to those who are not members to subscribe; number eight wished to know if they should remove into the Borough, that press-gangs were about, and they had lost their business; Thelwall moved to appoint a permanent committee of delegates to consider of the measures to be pursued during the present posture of affairs, and to be a secret one; those of the general committee of

tioned.

Gentlemen, this shows this appointment of a committee to the appointment of a secret in the then posture! secret committee were after this extraordinary way, but another secret committee, not to be known; so the conducted by a secret committee probably be the same person be known by any one to be and the ground of it is, that be dangerous. What they were to do is matter of extraordinary proceeding. received in a parcel from Margarot, dated the 11th of January was received from Gerrard writer to be sent down to

At a meeting on the number eighteen moved to of Swine; a committee of the new constitution of that 50,000 hand-bills a speech respecting the foreign, and to return him the time the witness says he gate. He was then asked was; he describes himself as a monger, and to be in the that he was first among the student at the sign of the Mar he saw some of the resolution he told the landlord that that to be a meeting to overture and advised him not to let any more, for if he did that his licence taken from him, into the room and converse he refers to a paper which

the retail way since he left Alexander Shrimpton and Company; that the resolutions and addresses were first published upon the twenty-fourth of May 1792; he says that when he was tried for being a spy, there was nothing particular brought forward against him. In that month, he says, he went into Staffordshire and Yorkshire for some time; that he consulted with a friend, who recommended to him to make a report of these transactions, and he has done so from time to time; he thinks the first report he made was on the first of October, 1792; he made his reports to one whom he was certain would communicate those reports to a proper channel, but that person was not a magistrate; he says he put down every thing he could; that it was his duty to do so, for he was to report to his own division, and he gave the same reports to his division, according to his notes, as he had given into that channel by which he meant to make a discovery of all that had passed.

Gentlemen, it has been a fatiguing work to go through these broken accounts of the transactions of the society from this man's notes, and the accounts must necessarily be somewhat imperfect; but upon the whole they carry with them very great marks of authenticity; and with respect to those facts which can be clearly collected from them, they seem to be very weightily proved, and I cannot imagine that the evidence of this man is shaken in any particular whatever, from the mere circumstance of a man, otherwise of credit, choosing to give information of proceedings which he conceived to be dangerous to the constitution of the country;—to say that that is to affect his credit, is not a thing to be asserted in a court of justice, nor fit to be encouraged by a jury. Wherever men of this description give evidence, and they give their evidence in a way which is fairly open to observation, the circumstance of their coming to give their evidence in this manner will have its weight, but if their evidence in other respects is uniformly consistent and probable, and is not impeached, it is not enough to say that this man went into this society on purpose to inform the magistrate of what was passing. It is extremely necessary that should be done; it is the duty of magistrates to watch over the public peace, if any thing material is going forward by which the public peace of the country may be affected; it is the duty of the magistrate to use all proper means to bring these proceedings to light, in order that they may be brought to the test of the law; and he would be criminal if he did not use those means.

The next witness is Maclean; he produces a letter found upon Adams, the secretary of the Constitutional Society, dated the thirtieth of October, 1792, from the editor of the Patriot at Sheffield, directed to John Andrews, secretary to the Society of the Friends of Universal Peace and the Rights of Man, at Stockport.

This letter, though of a pretty old date, seems to have deserved attention; it shows the extraordinary diligence and attention with which the making proselytes to this cause, was pursued in that part of the country, as well as in many others. That letter and the answer to it must be read.

[See pages 825 & 829.]

Gentlemen, the next witness is John Coates; he says he is an apprentice to Franklow, who lived at number one, China Walk, Lambeth; he says he was bound apprentice in November last; that Franklow used to be out late of nights; that there used to be exercising with fire arms up stairs twice a week, about eight o'clock in the evening; that Shelmerdine and Williams were two of the persons who used to be there, there were about eight or nine of them; he supposes them to be the same persons, the window shutters were shut; his master used to go to Worcester-street, in the Borough, he does not know what he did there; he says the arms they used at his master's house were kept on the first floor, he did not know where they were put after his master was apprehended; he remembers seeing cartouch boxes in the cutting room, they lay upon the board; he once saw his master in regimentals, and that Williams had a uniform, he saw his master in regimentals one Sunday morning in the house.

James Walsh was at Chalk-farm when Richter read the resolutions; he heard the word convention mentioned by him, and that they had formed a correspondence with different societies in different towns; that was all he could speak to, except that two hundred thousand copies of the resolutions were to be printed; and he says that Thelwall spoke very violently.

Thomas Green was the next witness; he says he is a perfumer, that he also deals in knives and cutlery ware; he says it is customary for perfumers to deal in such articles; he says he had knives with a catch in the back, he had three dozen of them from Sheffield, packed in small parcels, he sold fourteen of them, he can name three or four persons who bought single knives, one was the prisoner at the bar, and that he sent him six others in a package; that he was to make choice of one, and if he could dispose of the rest he might; he did not book them, and four of them were returned after Hardy was apprehended, he had not called on him before; he said he sold one to one Mr. Billington, and one to Groves; he had them from Scofield and Company, at Sheffield; that he had dealt with another person in Sheffield; they have riders; one happened to bring patterns of this kind of knife, which before he had seen in shops in the Strand, and other places, and so he ordered a parcel; he says he does not know how Hardy came to know that he had them; he says that in ~~Constitutional Society~~

he ate his supper with one of these knives, Pearce had another which was rather better finished, and which he had not bought of the witness.

Upon his cross-examination, he says he used such a knife as this seven years ago; that he has twenty of the three dozen he bought left now; most cutler's shops have them; that he sold them in the common course of his trade. As to Groves, he says he came to purchase a knife, and he remarked the utility of the knife; he did not tell Groves that he had sold two or three hundred of them, but Groves asked him if he had sold many, he told him yes, he not liking to discourage the sale of his own goods; he says he did not desire Groves to speak low, because the parlour door was open, and his wife was a damned aristocrat, he did not use such an expression; he did not desire Groves to speak low; that the knives lay openly in the glass case for sale; he says he did not keep them to sell to mischievous people, and he does not recollect saying a word about his wife, or using the word aristocrat, and that he never wished to conceal from his wife that he sold these knives.

Now here, undoubtedly, there is a flat contradiction between him and Groves; they are both witnesses called on the part of the crown; they certainly put you under a dilemma, and make it difficult for you to be satisfied that Groves is a person who is entitled to credit for what he has said; at the same time though Groves is contradicted in this particular by this witness, he is contradicted in no other particular where witnesses might have been called to contradict him, that is a circumstance for your consideration, upon which you will exercise your judgment, I am not at all pressing you to incline to give more credit to a witness who has been contradicted in one particular, than the whole tenor of his evidence upon the whole entitles him to.

The next witness, is Edward Hodson, a printer; he declined answering whether he printed a particular paper which was shown to him, but he admits that one Hodgson applied to him to print it, and brought the manuscript. It is a hand-bill respecting the Ins and Outs, that we are in danger from the French, and from the Hessians and Hanoverians, in either case we should get arms, and learn how to use them—you recollect the paper.\* He says, that from all he observed, he has no reason to suppose that they had any thing but a reform of parliament in view, that it was no part of their plan to attack the king, he never heard any such thing, or to displace the Lords—he would not have continued a moment longer in the society, if he had supposed any such thing.

He says, that upon Hardy and Adams being taken up, and reports being in circulation,

that under pretence of reform, they had other objects in view, he left them—he says he understood the Convention was a thing not determined upon—that they were to take the advice of the societies in the country, whether they were to assemble a convention—he says there was no idea of their making laws, or introducing the anarchy of France into England—he became a member in the month of February—he says he has read a printed copy of the resolutions at Chalk-farm, he has seen a printed copy of the proceedings on the twentieth of January; he knew nothing of their having any thing to do with the works of Paine—that several people applied to him to print the proceedings at Chalk-farm.

The next witness, is George Ross, of Edinburgh; he says he became a member of the Society of the Friends of the People in Edinburgh, about the end of the year 1793; that he was a member of the British Convention; he says he made a mistake at first, as to the year, it was in 1792, that he was made a member; that at the end of November, or the beginning of December, 1793, the delegates from other societies in Scotland attended, and some from England; he says he received some letters from one Stock, in Edinburgh, who was a member of another society of the same nature; he says he sent several of them into the country; one to a person of the name of Miller, at Perth, which is now produced; he sent one to Strathaven, and one to Paisley; he is not certain whether he sent one to Dundee; he cannot be certain whether he was present at the vote of union that they came to in the Convention, when they extended their hands; he says he remembers the fact of their dispersion—he says the circular letter produced is the paper which was sent by him, to different parts of Scotland.

Upon his cross-examination he says, that his only object was, a reform in the House of Commons, he never thought there was an intention to attack the king's person, or his prerogatives; they did not at all consider themselves as the parliament of Great Britain, but they meant to consider of proper means of petitioning; he says he perceived nothing of any other intent; nothing was said against the king, that he heard; he says it would have been foolish enough to attempt to make laws to bind the people—he says the British Convention consisted of about two hundred persons—they had no arms to attack the magistrates; there was no preparation of the means for resistance; he said they had nothing illegal in their thoughts; if they had thought it illegal, they would not have done it, or if they had thought it dangerous to the king, they would not have done it. He says the Convention consisted of people of all ranks, mostly people of good character, people of sober lives and good morals; he says he does not recollect being present at a

\* See p. 837.



particular resolution inquired after;—he says, he thinks he was present when the resolution was come to about the Habeas Corpus Act, to meet at a place to be appointed by the secret committee. He says, Downie was a member of the society; he understood the Convention of Emergency to be called to petition parliament; that he would not have agreed to a convention upon any other terms; that he understood they were to specify a particular reform in their petition.

Arthur M'Ewan says, he lives at the Water of Leith, he remembers the dispersion of the convention by the magistrates; that a large committee of union met in consequence of it, of which Watt was a member; there was another committee, a sub-committee, called a committee of Ways and Means; that Stock, Bourke, Aitcheson, Bonthron, Downie, Watt, and himself, were of that committee, to look into the affairs of Skirving; he never saw the letter inquired after.

He says, that Watt read to them a plan to seize the lord justice Clerk, and the rest of the lords of council and session, and the lord provost of Edinburgh; to kindle a fire at the Excise-office, in the New Town, and that parties should be stationed in the street, to intercept the soldiers as they came down from the castle; the fire was to draw the military from the castle; coming down to a point, they were to be inclosed by two parties; that different parties were to seize the banking houses in Edinburgh, and commissioners were to be appointed to demand the cash from the banks; he did not know who were to execute this, only the sub-committee were present when this was disclosed; the witness said, he objected to all this, he would not agree to any thing that should disturb the peace, or shed the blood of his countrymen; that Bonthron agreed with him, and no farther communication was made at that time.

He says, at another meeting Watt produced a copy of a proclamation, prohibiting the removal of corn, grain, hay, and meal; that persons were not to remove the same from their respective places of abode; there was a copy of an address to the king, ordering him to dismiss his present ministers, and to put an end to this bloody war, or else he might expect bad consequences to ensue—this was to be sent to the king, on the morning after the attack. The witness said, these things did not belong to the cause of a reform, and he would have nothing to do with it.

He says, he went with Watt, to Robert Orrock's, to bespeak pikes; Orrock sketched out one, Watt said, he had four thousand to send to Perth, besides what he had to distribute about Edinburgh; Stock was of the committee, he said he was going to London, or Bristol, and would wait on Hardy by the desire of Watt, who proposed to send a letter to Hardy; Stock undertook to take this letter. Stock took a slip of paper, and gave him some token by which this same corres-

pondence was to be conducted, something was to signify, that the aristocrats were doing so and so, and the democrats so and so; Stock was to call again upon Watt; the witness saw him no more.

Upon his cross-examination he says, that a parliamentary reform was the object of the society; that the society to which he belonged, consisted of about twenty; that he attended the convention about half a dozen nights; that they meant to obtain a parliamentary reform, by a petition, and that it was to have come under consideration, the night they were dispersed. You see there was a scroll of a petition brought forward, and a negative put upon it, in a certain way, by calling for the order of the day; but in that story of his he must be mistaken; he says it was to come under consideration the night of the dispersion; that there were near two hundred members; that they had no arms; he never heard of an intention to use force; that the reform most of them spoke of, was universal suffrage, and annual parliaments, and some were for triennial parliaments; he says, there was nothing said, touching the King, or the Lords; he cannot undertake to say, what that committee of union was for, he did not hear that it was for the purpose of establishing a new convention; he says Skirving's letter was read at a meeting, and a sub-committee appointed. He says, he heard the delegates were to have another convention, of the time, and place of meeting of which, they were to get information; he could not say as to the purposes of the new convention.

William Middleton says, he searched the house of Watt, on the fifteenth of May, but nothing turns upon that.

Gentlemen, this was the evidence they gave of a conspiracy breaking out in Scotland, after the dispersion of the convention, which it is insisted upon by the attorney-general, makes a part of this general plan, in this country; that by possibility, Hardy's circular letter, or some other of Hardy's publications, or the publication of the Sheffield committee, or of the Constitutional Society might have excited this, is certainly true, and therefore the evidence could not be rejected; but as to the bringing home to the prisoner, Hardy, that he was implicated directly in this conspiracy, the evidence does not appear to me to go that length, for all the conversation about a letter to be carried by Stock to Hardy, comes to nothing, for Stock never did deliver that letter; Margaret and Gerald, who were delegates with Hardy's participation from the Corresponding Society, do not appear to have been involved in this conspiracy—they were, I believe, in custody at the time, and upon the whole, therefore, that does rather seem to have been something that broke out in consequence of the general irritation which had been so improperly produced by the pains that had been taken throughout the country to irritate it; but I do not see any

session, before Hardy was apprehended; they were, therefore, papers that existed before that time.

Now this paper purports to be projected resolutions for the meeting at Chalk-farm; they differ essentially from the resolutions that were agreed to, and appear to be of a more direct and violent cast than those resolutions were, because they point immediately to the person of the king; it will be proper that you should hear that paper now read.

[See page 870.]

Gentlemen, what is conveyed by that last resolution? That it is the bounden duty of the people to punish all traitors against the nation, and that the following words are now not a part of the oath of allegiance—"That it is not lawful to take arms against the king;" a more dangerous and more treasonable paper, one has hardly ever seen: of this paper I have to remark, that there is no evidence which directly brings it home to the prisoner, Hardy, but the evidence stands thus—This has been manifestly a draught of a resolution which, in the mind of the drawer, was intended for a meeting of the London Corresponding Society, about that time; the date to it is the fourteenth of April; upon that fourteenth of April the Chalk-farm resolutions were proposed; the paper was found upon Thelwall, who was present at the Chalk-farm meeting, and taking an active part there; such a paper, therefore, found upon Thelwall and Martin, two members of this society, seems but too manifestly to prove what the ideas were that were floating in the minds of these people, at the time of those resolutions; and they certainly show, that very dangerous

that he missed a night for that he ceased to be a member; that he was taken up; that he was absent; that he was perfectly with him; that he hardly upon him on a Sunday; that he was a remarkably peaceable man; that when the meetings were desired that they would go with them; that his objection to a reform in the House was that it was no part of his alteration in the House meant nothing against him; that he should; that his conversations upon politics he had with Hardy; that he bid him to ask a number of questions; that he never supposed the prisoner was different from his; he saw the letter from Sheffield; that his brother introduced him to the tavern; and at Chalk-farm he was very peaceable; that the resolutions in print, and that he obtained a correct account of them; that he thought that all that was in the places, was agreeable to him.

He says, it is true, that he was a delegate to the Scotch Committee; that he himself was not in office; that he was not a member of the committee; he never heard of the secret committee were of their proceedings, and that he attended after Hardy was taken up; that he heard of Margarot and Gerrald in August, 1793; he heard



in them; there was one very long one; he cannot recollect the title of it; three of these songs were printed in one sheet of paper; he cannot recollect the title of them.

The only observation that occurs to me, upon this man's evidence is, the distance at which he seems to have been kept from all knowledge of what was doing; there was a secret committee, which seem to have managed all the material concerns of the society; and it is remarkable, that this person who was connected with Hardy, did not even know any thing with regard to the circumstance of the pikes; whether Hardy's not communicating it happened merely by accident, which I think most probable, or whether there was any reason for not letting this man into the business of the pikes, is a good deal uncertain, upon this state of the evidence; but, if other people were let into it, why this man was not is not easy to see.

Francis Dowling says, he was a member of this society, and belonged to Hardy's division; their only object was, a reform in the House of Commons; they had no thoughts against the King or the House of Lords; they had no idea of opposing the government by force. The object of the convention, he says, was, to get the sense of the delegates, from different divisions, to obtain a reform in the House of Commons, and that there was no intention of proceeding by force in any member of the society; he says, that he was two years and a half in the division, and never saw or heard of a letter, from Sheffield, about pikes; he was a member of this society from the commencement of it: he says, he dined at the Crown and Anchor, on the second of May; there was some music, but he does not know what it was. He says, he was at Chalk Farm; he saw the resolutions at the Globe-tavern, but he does not recollect what they were; he was once delegate, for six months; he ceased to be so, five or six months ago.

He says, he knew Spence's shop; he bought pamphlets there; he has seen Franklow there, but never heard of any exercising there, till he heard of it now; he says, he has heard of a committee of correspondence; if there was one, it was voted by ballot; he knows Hodgson the hatter; he knows nothing of any secret committee being appointed, after the apprehension of Hardy; that he has never been in Academy court, Chancery-lane; he never heard of the Sheffield letter, till he saw it in the report of the secret committee; he never heard of the order to stick the bills up in the night; Carter, who stuck up the bills, received the money; whether the bill was criminal he cannot tell; he did not hear all the contents of the resolutions; the general conduct of the people, he says, at Chalk Farm was peaceable; then, he says, he voted for the resolutions, without hearing them distinctly, but that others attended to them; that he voted because others did; that is a way in which the majority in these assemblies, I dare say, was very often obtained.

Alexander Wills says, he was between two and three years a member of the Corresponding Society; he says, the object of the society was a parliamentary reform in the House of Commons; that they were full of respect, honour, and fidelity, to the king; he never had reason to think others intended otherwise; never to his knowledge, was it intended to do any thing by force; that he would not have continued in the society, if there had been any intention of doing any thing by force; he has not been a member of the society since the king of France suffered; that the prisoner is of an amiable character, and a good member of society.

The witness says, he is a dancing-master; he is also a member of the Constitutional Society; he was introduced by Holcroft, after he became a member of the Constitutional Society; he wished to hear speakers that were clever men; he took his rule of politics from news-papers, from public report, and from debates in both Houses of Parliament; he was but little acquainted with the proceedings; he did not see the books at the meetings; he never knew any of their transactions, which might bring the people or those they employed, into any difficulties; he may, he says, have given a shilling, or five shillings, a guinea, two guineas, or five guineas, to assist Carter; he says, he often gives five guineas, and he does not know whom he gives it to; then, when pressed a little, he says, he might have given some shillings, if not guineas; at last he said, he did not give guineas, but he did give a few shillings; he says, he was asked, in one of the societies, to contribute, in Compton-street; he says, he is not sure he gave more than that. He never heard of a secret committee, or committee of correspondence, and never saw any letter that had been written to the prisoner. I think, notwithstanding that strange flourish of his, about the five guineas, one may safely conclude that there was no harm in this witness.

Archibald Hunter was a member of the London Corresponding Society about twenty months; he knows the prisoner; he belonged to the same division with Hardy; he says, the object of the society was, to obtain a parliamentary reform; he never understood any thing else but a reform in the Commons House of Parliament; the King, and the House of Lords, to remain as they were; he never heard of force out of the Report; he says, there was no intention to attack the government of the country; that Hardy was a peaceable, respectable, quiet man; he says, Hardy never produced any letter at the division, about pikes, nor communicated it, to his knowledge; he continued a member of the society; he was introduced by Joseph Hunter; he did not attend very regularly, being frequently out of town.

He says, he was at Chalk Farm, and at the Globe-tavern; he understood their proceed-





he came to London; that he was one of his congregation; that he is a very respectable character, and as far as connected with him in a religious society, he can speak to his character; his moral conduct is good; that he is a man of conscience towards God and man.

Peter Macbean, a shoe-maker, says, he has known Hardy seventeen years; that he is of a very amiable character, both civil and religious; a peaceable, quiet, well-disposed man.—The witness says, he has been a member of the Corresponding Society, but had ceased to be one two years ago; he says, he remembers no resolutions about Paine's Rights of Man; he remembers their writing to the Constitutional Society, to have members associated; he met with them at the Bell, in Exeter-street, before the society was formed; he was no delegate; he does not recollect who was the first chairman; Margarot might be for any thing he knew; he believes Hardy to be one of the first that met; and a person of the name of Black, and a Mr. Gow, who is since dead; that there was no clergyman or physician among them; that there were thirty or forty, or more, when they met the greatest number; the first time he came, perhaps, there might be twenty; he believes Margarot was the principal man in forming the original laws, but he cannot recollect who assisted.

Alexander Gordon, a shoe-maker, says, he has known the prisoner twenty years; that he is a sober, honest, industrious, peaceable man.

John Bogue, a carpenter and cabinet-maker, says he has known the prisoner near ten years; that he is an industrious, honest, christian man.

Mathew Dickey, a Scotch factor, says, he has known the prisoner upwards of five years; that he is a strictly honest, upright man; their intercourse was entirely upon business.

James Hardy says, he is not related to the prisoner; he lives in Smithfield; he has known him from 1779, or 1780; he gives him the best of characters.

They then call Mr. King, and the purpose for which they call Mr. King was, to show, that a letter, which was enclosed to Hardy, in Davison's letter, which Davison's letter, you recollect, proposed to Hardy a plan for furnishing the society, or any one that wanted them, with pikes, from Sheffield; in that letter, a letter to a society at Norwich was sent enclosed; Mr. King is not able to speak exactly to it, but he says, he does recollect the circumstance of a letter being found, unopened at the time, but he cannot take upon him to say, whether that was the Norwich letter or no.

David Martin, of Sheffield, says, he is a member of a society there, for a reform in the Commons House of parliament, by legal and constitutional means; he says, that he had no reason to believe that the object of any other person, was different from his; he

had not the most distant idea of doing any thing by force; he says, they sent delegates to Scotland, to co-operate with other delegates, to obtain a reform, by a petition to parliament; he says, they hoped the effect of a general co-operation, would be sufficient to induce the parliament to grant the petition; that it was not their design to compel by force; he says, he would not have remained in the society, if it had; he had no intention to attack the King, nor to attack the Lords; he says, he knows a person of the name of Gale, he was an active man in the society, he believes he is not now at Sheffield, he has no house there; the witness was made an associated member of the Constitutional Society, in 1792; he has heard of the proceedings of the Scotch Convention, he saw an account of them in the Gazetteer of Edinburgh, he did not approve of that part relating to a secret committee—he says, being at the outside of the people, on the Castle-hill, he did not hear the resolution to petition the House of Commons no more—he says, Yorke and he had not exactly the same opinion, as to a plan of reform in parliament; he does not know who are the editors of the Patriot, but has heard that Brown was one, which Brown was a delegate to the Scotch Convention; he thought him a peaceable, and well-disposed man; he says, there were letters between their society, and the Stockport Society, and he thought they also were peaceably disposed.—He says, he was not in the secret, that the motion for a petition to parliament, which Broomhead made at the Sheffield meeting, was made to be negatived; he says, whatever Mr. Brown might write or think, or whatever he might do, the society gave him no authority to act for them at Edinburgh, except in a legal, and constitutional manner; he admits that he had read Yorke's speech.

Edward Oakes, a plater at Sheffield, says, he has been a member of the society, from 1791 to the present time; he says, he attended the meeting, that his object was, to procure, by lawful and constitutional means, in co-operation with the rest of the societies, a reform in parliament; they expected their petitions would be heard, when made by large bodies, that it would be more likely to impress the parliament; that it was never their object to use force; he says, he would not have remained in the society if that had been their object; they had no object, but a reform in the House of Commons, and that by petition. He says, he was upon the Castle-hill, that he does not know the terms of the resolution; he was in the society when a delegate was sent to Scotland, he does not recollect whether the proposition came from Scotland, or from themselves; he says, the object was, to have proper measures considered of, to obtain a parliamentary reform; he says, Brown was to express the sense of their society; they were to point out the proper way of addressing parliament, which might not



danger from the opposite party, that they had been threatened and ill used by the opposite party, and by individuals, who took upon themselves an authority that they had no right to; this was complained of in the society; he says, that it never was designed or agitated to arm, as a body, to attack the government; if it had been, he should have known it.—He says, he was a member of the committee; he does not know that there were any of their members in any ways associated with the Corresponding Society, any farther than by correspondence; he did not constantly attend the committee, and the committee did not regularly enter their proceedings; they were kept by William Broomhead; he says he knows Samuel Ashton; that he corresponded with the society in London, for their society; he has seen Ashton write, but he did not attend to his writing; he says that the letters that were sent were not altogether known to the society at large; the body trusted to the committee; that the committee sometimes reported, but had no fixed time for doing it; he says, Paine's Rights of Man had been introduced into the society, before they were declared to be a libel; he does not know whether a letter of the 14th of March, to Adams, was sent; he speaks of writing to Mr. Horne Tooke, and to the Constitutional Society; two letters were read; one of them was enclosed to Hardy, in answer to a letter from him, to know what it was they were doing; the other was a letter, of the same date, found upon Adams.

The witness admitted the letters to be Ashton's hand-writing, and signed by him; it says they were resolved to obtain a radical reform of the country, as soon as prudence and discretion will permit; and they request

knows of; that many of were published.

Daniel Stuart is called as had a letter from the Sheffield Samuel Ashton, to the Friend dated the 14th of May, 1799 the People having published upon the 11th of April pre it will be necessary that answer should be read.

[See pages 1096 a

Mr. Attorney General.— upon his cross-examination letter of the 26th of May, sent to the Constitutional Society has no objection, I think proper place to read it in.

Lord Chief Justice Eyre.

[See p. 1111

Lord Chief Justice Eyre. he never heard of this letter May, to the Constitutional Society; thinks he did not know at their members having been the Constitutional Society; to some gentlemen having the Friends of the People, had, and that other men added to that society; he was then Lord Daer, a member of Convention, had been expelled, he says he is still a member.

William Dewsnap, a razor field, says he was a member of the Society; that their object was in the Commons House of Commons, that they



them; he says, he has heard people speak of ill-treating the society; that there were inflammatory letters in the Sheffield papers from one Russell; he says, however, he is almost a stranger to the pike business, as to the general object, if it had been to have armed, it must have been known to him, he must have heard of it, the question was never agitated in the committee, or in the society; he never heard of any intention to resist, or to attack government, he had no such object himself, and he has reasonable hope that the society had not; he says, the society published the duke of Richmond's letter to inform the societies at large of the principles they meant to go upon, and they adhered strictly to those principles.

Upon his cross-examination he says, the object was, all along, to obtain a reform by petition; that that was negatived on the Castle-hill, he heard no voice in the affirmative; he says he remained a member of the society, after that; he has some recollection of a vote of approbation of the proceedings of the Scotch Convention, but he was not then present; he says, he did not know of the contrivance to have the vote for the petition negatived, neither from Broomhead nor Camage, and he has had correspondence with Broomhead for fifteen years; he says, he did not know that any petition to his majesty was prepared; he says he can form no belief as to the hand-writing of Ashton.

Edward Smith, a cutler in Sheffield, says, he was a member of the society in 1791; that their object was, to obtain a parliamentary reform upon the duke of Richmond's plan, in his letter to colonel Sharman; he understood by the expression Rights of Man in their letters, equal representation in parliament in the House of Commons; he never heard any thing in the society that they wished to attack the king's title or his prerogative, but much the other way, nor to touch the dignity of the House of Lords; he meant to have, as he strangely expressed it the glorious advantages obtained in 1688; that he heard nothing of force, he heard nothing of arms 'till the hand-bill that threatened them; that upon any good news they used to fire pistols into their houses; that there was nothing to provoke this conduct; that there was no regular arming; he says if they had determined to arm, Sheffield could in one day have furnished ten thousand pikes; that it never was his wish or object in becoming a member of that society, to touch or affect his sovereign.

Upon his cross-examination, he says, that he thought it necessary to provide arms for his own defence; he does not know how many did; he says, as to himself, he made no application to any magistrate, he says it was put into the Register, a public newspaper at Sheffield, that they advised people to arm to assist the magistrates, the advice was to arm against domestic enemies and foreign

invasion, that being the substance of the hand-bill, which they understood to be against them, they adopted similar words; he says, that by equal representation, he means that every man was to have his vote; he had read both editions of the Rights of Man by Mr. Paine; he obtained them by a subscription of a few friends; that there were many that had them; that they thought well of them; that they seldom read them at the society, but they read them at their own houses; they also had other cheap publications; he says, he was not at the meeting when they approved of Paine's works; that he never took into consideration Paine's notions of monarchy; that the society did not adopt that, but they made no protest against it; that they did not wish to destroy monarchy; he understood the author to be expressing disaffection; he says, he knew Yorke at Sheffield, he was at the Castle-hill, they voted by holding up hands; he never heard of the address from the society to France.

His grace the duke of Richmond is then called, in order to identify a paper which is represented to be his grace's plan for a reform of parliament; he could not identify that paper, but produced a paper purporting to be a letter to a colonel Sharman, containing a plan for a reform of parliament, and that letter was read. The plan was for universal suffrage and annual election, and it stated that the remedy—that the way to obtain it would be by the people: he did not expressly name a convention of the people, but, however, he certainly said enough to put that expedient into the heads of those who were eager for such a plan.

Mr. Stuart is then called again; he says, that he has heard Hardy state his plan to be universal suffrage and annual parliaments; the witness always objected to it, but that was Hardy's opinion, he always adhered to the duke of Richmond's plan—he said, that was the whole object of his society; he was once in company with him at supper, he found him a sincere, simple, honest man; he says he did not know that he had been an associated member of the Constitutional Society.

Mr. Sterling produced the minutes of a Scotch borough convention, but they could not be read.

Joseph Strutt of Derby, says, he belonged to a society there; that a reform in the Commons House of Parliament was their object, they had no design against the King, or the House of Lords, and they had no intention to bring about that reform by force; that upon their petition being rejected, their society never met again.

Mr. Sheridan was then called; he says, he once saw the prisoner, that it was in the beginning of March, 1793; he had given notice of an intention to bring forward an inquiry in parliament into the cause of the election in



that time;\* that upon that occasion he sent to Hardy, who, he understood, could give him information; he came to him, and he conversed with him; Hardy stated his whole object to be obtaining by peaceable means a reform on the duke of Richmond's plan, and that he was ready to give him a sight of his whole correspondence, to produce all his papers to him, that he might lay them before parliament in any manner that he should think fit; he was asked whether he was or not an original member of the Constitutional Society, he said he was, but he had not attended since 1783; there were some questions whether Mr. Sheridan had said anything of books, as well as papers, whether Hardy offered him books as well as papers; afterwards he said he could not take upon him to be sure that Hardy mentioned books; that his offer was, to put him in possession of all the papers.

Mr. Francis was then called; he saw Mr. Hardy twice, first at his own house, and afterwards at Mr. Francis's house; the Corresponding Society had thanked Mr. Francis for a speech he had made in parliament in the year 1793, and had expressed a desire that it should be printed; upon that occasion he saw Mr. Hardy; he says, before that time Hardy had been sent to him to desire him to present a petition on the subject of a reform in parliament; that they wished their delegates might be admitted to come to his house, accordingly they were admitted, and they brought a petition—there were four of them; he told them he objected to the prayer of their petition, which was for universal representation according to the duke of Richmond's plan; he says, that Hardy seemed a remarkably reasonable, quiet man; that they were very ready at the argument in support of universal suffrage, they said they only followed the opinions of the duke of Richmond; he says, he told them they should have left the remedy in general terms to the wisdom of the house; they said they were sorry they had not known that sooner, but that now they could not alter it, as the petition was signed by a great number of people, and must be presented that day, because Mr. Grey was that day to make his motion.

Mr. Francis says, they did not declare that they would accept nothing else, but they appeared to him to adhere to universal representation. There is a little puzzle about a letter which had been written to Mr. Francis, and his answer; they had in that letter thanked him for what he had said about a radical reform on a broad basis; he says that was not exactly the tenor of his speech, but he did not think it right to enter into much altercation upon the subject, he gave them a civil answer, and there it ended.

\* See the debate on Mr. Sheridan's motion, in the New Parliamentary History, Vol. 30, p. 523.

The Earl of Lauderdale says, he received a letter from the Society of the Friends of the People at Portsburg, near Edinburgh; that he saw Skirving upon that occasion, and he supposes the application was made to him in consequence of a conversation with Skirving; Skirving represented that they wished to have men of education, that they might be prevented from falling into absurdities, which they should otherwise be liable to fall into; he says, he had no reason to suspect that any thing more was meant than to obtain Universal Suffrage and Annual Parliaments; he heard nothing of force, and has no reason to think there was any intention of force. He was asked if he had heard any thing of Skirving's letter to Hardy in July, 1793, which is a remarkable letter, his lordship says he had not;—this, I think, is the evidence on the part of the defendant.

Gentlemen, I would, if the day were not so far spent, and my own strength too much exhausted, now go on and finish what I have to say upon this subject, but I foresee it must necessarily run into an inconvenient length, both to myself and to you; and, therefore, I believe I must trouble you to attend to-morrow morning, and then I shall hope in a few hours to release you.

It being now thirty-five minutes past eleven o'clock at night, the Court adjourned to Wednesday morning, nine o'clock.

*Session House in the Old Bailey, Wednesday, November 5th, 1794.*

PRESENT,

Lord Chief Justice Eyre, Lord Chief Baron Macdonald, Mr. Baron Hotham, Mr. Justice Buller, Mr. Justice Grose, and others his Majesty's Justices, &c.

*Thomas Hardy set to the bar.*

Lord Chief Justice Eyre.—Gentlemen of the Jury; Last night, at a late hour, I finished the summing up of the parol evidence, and some parts of the written evidence, which seemed to be more immediately connected with the parol evidence on both sides, except that I did not state to you the protest in the House of Lords, which was read to you, by the consent of the attorney-general, on the part of the prisoner. I did not state it to you at that time, because it did not appear to me to be in its nature evidence. It is something that has passed in the Parliamentary History of this country, from whence arguments might be drawn, on the part of the prisoner, to evidence the purity and honesty of his intentions, and, in my judgment, it is in that view only that it can be made use of in his behalf.

Having thus finished the summing up of the evidence, I may say to you, that this cause, this great and momentous cause be-



tween the king and the prisoner at the bar, is at length brought to the point of conclusion; and it must be a satisfaction to the mind of every honest man that this cause has been so conducted, has been proceeded upon, and has been attended to by you with so much patience and temper, that there is reason to expect that your minds have been sufficiently informed on the subject to enable you to discover its true merits, and to pronounce a verdict, which in the first place will be satisfactory to your own consciences, and as such, cannot but be satisfactory to the community.

Gentlemen, it is as great a satisfaction to me, as I can feel in the exercise of so painful a duty as that which has been cast upon me, to reflect that upon this occasion there is, I think, no possible chance of our being entangled in any difficulties in point of law. The verdict in this case, will not proceed, and you will receive no directions from me that it ought to proceed, on any narrow or technical grounds. The overt-act charged in this indictment, is in substance, that the prisoner at the bar, and those who have been concerned with him, have conspired to depose the king, and to subvert the monarchy of this country; and this is charged, and always has been considered, as an overt-act of the treason of compassing the death of the king. It is indeed a known presumption of law, acknowledged by the best writers upon the law, and particularly by every one of those writers who have been referred to by the counsel on both sides, that he who conspires to depose the king, compasses and imagines the death of the king; and it never has been made a question, whether the compassing and imagining the death of the king was the primary intent conceived in the mind, and was prior to the conspiracy to depose him, or whether the conspiracy to depose the king, must necessarily, from the nature of the charge, be subsequent to the compassing and imagining the death of the king: I say it is not to be put to you that the compassing and imagining the death of the king is to be proved a conception in the mind, prior to the conception of deposing the king. The conspiracy to depose the king is evidence of compassing and imagining the death of the king, conclusive in its nature, so conclusive that it is become a presumption of law, which is in truth nothing more than a necessary and violent presumption of fact, admitting of no contradiction. Who can doubt that the natural person of the king is immediately attacked and attempted by him who attempts to depose him.

Gentlemen, I shall employ no more time in discussing such a question; many, many hours were spent at the bar, in this discussion; but, on the part of the prisoner, it was manifest, that, after the discussion, the argument broke down under the case, and it became impossible for either of the gentlemen to set himself distinctly to maintain this pro-

position, that an honest man could fairly doubt whether he who conspires to depose the king, has compassed or imagined his death.

Gentlemen, you will therefore proceed to the examination of the fact, and I am most cordially disposed to agree with the counsel for the prisoner, that, if he is this day to be convicted, he ought to be proveablement attainted; i. e. the proof ought to be clear and convincing. I avoid using the word direct, lest I should entangle you in a difficulty, as to the nature of the proof; it may consist of a train of circumstances, provided the result is such as shall leave no doubt in your minds. The law of the land is perfectly clear, that such proof is as legal, and therefore ought to be as satisfactory, as the most positive and direct proof that can be offered.

Gentlemen, the question of fact may be shortly stated thus:—Whether the prisoner, and the other persons, have conspired to subvert the monarchy, and whether they have set on foot a project of a convention of the people, in order to effect it?

Gentlemen, I have employed a part of that time since the Court broke up, which it was necessary enough for me to have devoted to sleep, in endeavouring to take such a review of the evidence in this cause, as might enable me to lay the questions of fact between the king, and the prisoner at the bar, with some tolerable distinctness, before you, that you might see where the matter hinged, and that you might be the better enabled to apply your attention and consideration to the different points of the case. I do not know whether I shall succeed, or not, but I do hope I shall be able to point out to you the leading features of this case, in a way that may be of some use to you in forming your judgment.

I begin with stating to you, that I think it ought to be conceded to this prisoner, upon the whole result of this evidence, that he had set out originally upon that which is called the Duke of Richmond's Plan of a Reform in Parliament; that is, upon a plan to obtain a representation of the people in the Commons House of Parliament, by Universal Suffrage and Annual Election; and I think it will be incumbent on those who sustain the prosecution, to satisfy you that the prisoner, and the other persons who have been concerned with him, whether irritated by their own enthusiasm, or by the example of France, have departed from that plan, and have entered into a criminal pursuit of another object;—another object, in the opinion of very wise men, not very far removed from that which was originally their object (and it is that proximity which has made a laboured promulgation of this doctrine of universal suffrage and annual election, so dangerous to the community); the object I mean to point out to you, is, the substituting, in the room of an improvement of the representation in the Commons House of Parliament, the establish-



ment of a government by a representation of the people only; a pure democracy, which may undoubtedly be comprehended under the Lords, "a full and free Representation of the People."

Gentlemen, in the mass of the written evidence which has been laid before you, there are to be found passages, and those not extremely numerous, which will be fit to be submitted to your consideration, as grounds from whence the prosecutors have drawn their conclusion, and by which they are to support it; that this departure from the original plan has taken place, and that the prisoner at the bar has entered into the criminal pursuit imputed to him; the passages in the evidence to which I particularly refer you, are those, in the first place, which mark the conduct of the popular societies, in which the prisoner is implicated, in the course of the year 1793, prior to their presenting their addresses to the National Convention of France; when you have considered this evidence, you will have then to consider those addresses to the National Convention, with the circumstances belonging to them. After you have seen and considered those addresses, you will then have to look at their subsequent conduct, to be collected from their written transactions, down to the time of the dispersion of the British Convention, in Scotland, in the latter end of the year 1793; and then you will have to consider, and to form your judgment upon that project of a Convention, which was conceived and proceeded upon, to a certain extent, in the beginning of 1794.

Gentlemen, here I think you will find the great outline of the charge, upon which, with such explanations as the rest of the written evidence will afford, and the additional circumstances disclosed by the parol testimony, you are to decide.

I think I may state to you, without troubling you with particular evidence, that it is clear, from the whole mass of the evidence which you have heard, that these popular societies had, in the beginning of the year 1793, so conducted themselves as to raise a question upon themselves, and their conduct, some time before the addresses to the National Convention took place; you will recollect that it appeared, from some of the papers which were read, that there was a society, calling themselves, "The Friends of the People," consisting of men of rank and property, and of distinction in the country, who had refused to correspond with the Constitutional Society. You will recollect, that the same set of men had exhorted the Sheffield Society, with whom they were in correspondence that year, and had exhorted them in vain, to make an explicit declaration of their attachment to the government, as by law established. Some of these popular societies had gone so far, that a society, at Stockport, put the question, directly, to the London Corresponding Society,

by a letter, addressed to the prisoner now at the bar, to know what it was they meant, and particularly to know, whether they meant to go on with the House of Lords? That society intimated their doubts, whether, with the House of Lords, they could effectuate their plan of reform; or, whether with the bishops, who made a part of the House of Lords, liberty of conscience, as they understood it, could ever be satisfactorily established.

Another society, in the same year, from Norwich, put the question still more distinctly, and in a way which could not possibly be misunderstood; for they put this direct question to the prisoner, Hardy, as secretary to the London Corresponding Society:—"Do you intend to rip up the monarchy by the roots? It is in evidence, they suspected that this last letter was a snare, intended for them; you will recollect Lynam's evidence to that effect, and that they were on their guard. The prisoner, Hardy, for the society, answered both these letters. To be sure, one might reasonably have expected that men, who adopted the duke of Richmond's plan, with sincerity of heart, and who meant not to go beyond his plan, would, when called upon, have most distinctly avowed the extent of their plan, in terms which could admit of no equivocation, or exception; that they would have avowed their dutiful attachment to the king; that they would have avowed their adherence to the constitution of the government, as by law established, in King, Lords, and Commons; that they would have left no man to doubt, and particularly those persons who put the question to them, what their opinion was upon these points, on which their opinion was to govern the conduct of others. With respect to the present letter, the more reason they had to suspect that letter to be a snare, laid for them, the more reason they had to speak out.

What the opinion was that they really entertained, the answers to these two requisitions are supposed to be sufficient to enable you to discover; the letters and the answers shall now be read to you; before they are read, I would observe, once for all, that in a case of this nature, much stress ought not to be laid on particular expressions. God forbid that men's lives should depend on nice interpretations and constructions of words. I am against even a very strict interpretation of actions, to the prejudice of any prisoner; but sometimes expressions are too strong, sometimes transactions too explicit, to admit of any doubt as to their real interpretation and meaning.

Gentlemen, hear the answers to these two requisitions read; attend to them, and see what it is they do import, and particularly whether they do import any satisfactory and explicit avowal of attachment to the constitution of the country, as by law established, in King, Lords, and Commons.



[See pages 388, 389, 392, 393, *et seq.*]

Gentlemen, all the observations that are to be made on the particular expressions in these two answers, have been already made to you by the counsel, and you will judge of their proper force. I have no occasion to repeat them. Such of them as strike your minds, clearly and distinctly, are probably well founded. If it requires much niceness of critical inquiry to fix the meaning imputed to the words, I should advise you not to employ yourselves in that sort of criticism. I think you would only entangle yourselves, and you would not see the case in its great outlines, which I believe is the only way in which it can be seen truly. One observation only I shall make on their answer, because it is immediately connected with the history of this transaction, namely, that, in their answer they inform the society at Stockport, that they have resolved on addressing the French National Convention, and then follows this extraordinary passage: "Without entering into the probable effects of such a measure, effects which your society will not fail to discover, we invite you to join us." What were to be the probable effects of this measure, which these persons were to discover? And why did not they expressly avow to this society the whole of their project, in terms that could admit of no possible equivocation, or doubt? These are the only observations which I make on this letter.

Gentlemen, they state that they had resolved to address the National Convention, and they did, in fact, address it; and it is very apparent in the evidence, that the society to which Hardy belonged took the lead in that measure. They notify it not only to the Stockport Society, but also to the other societies, with whom they were then in correspondence. They transmitted their resolution to address the Convention to the Society for Constitutional Information; that society having declared their approbation of the intention, the London Corresponding Society transmitted to them the address, which they meant to send; the result was, that the Society for Constitutional Information did not think fit to join them in that particular address, but they also resolved to present an address of their own to the Convention of France, and they, in fact, did so. What their objects were in presenting these addresses, are only darkly alluded to in the letter of the Corresponding Society to the Society at Stockport; but whatever their objects might be, it is an observation which arises upon their conduct towards those two societies to whom they sent these two letters, and upon their conduct in thus presenting these addresses, that if, in order to account for, and to explain the letters, you could suppose that they had measures to keep with those societies, the violence of some to check, the moderation of others to animate, or any other objects, which made it necessary

for them to keep measures with those societies, and to answer every man in his own way, so as to lose none, and to increase the number of their followers; and if you were disposed, therefore, to attribute the particular language of these answers to some such necessity, or policy, yet in respect of their conduct to the National Convention of France, they appear to be perfectly volunteers; to have no measures to keep with any body, and to be therefore directly responsible for all the consequences that might follow from such addresses.

Gentlemen, it will be necessary to trouble you with the reading of these addresses; because they, on the part of the prosecution, insist, that they admit of no explanation whatever; that they are the measures of determined Republicans, going out of their way to express their zeal in the cause of Republicanism.—You will hear these addresses read, and you will judge for yourselves, how far they merit that imputation.

[See pages 522 and 526.]

Such was the language of these addresses, which were presented to the National Convention of France.

Gentlemen, it appears from the evidence, that these addresses were presented by persons appointed from hence. The name of one of them is J. Frost. The language in which Frost presented them, you are in possession of; it has been laid before you, in the course of the evidence, but it may be proper that you should now hear it read again.

[See page 529.]

I forbear, at this time, to remark on the conduct of the persons employed to present these addresses, except so far as that conduct is connected with the case of the prisoner at the bar, because, in any other view of it, it is not before you. The language used by Frost is connected with the case of the prisoner; for though not held by the prisoner himself, nor by the persons who deputed Frost to deliver the addresses, yet it is brought home to them, because the language of the presentation of the address is transmitted by Frost to the societies; and you will find, that, after they had been informed in what language it had been presented, an unqualified approbation of the conduct of Frost was given by the Society for Constitutional Information, of which Hardy was an associated member.

An observation has been made upon one of these addresses, which declares, that till the National Convention of France had begun to act, there was little to be done here, with respect to the views of these popular societies. What connexion the views of these popular societies could have with the National Convention of France, unless they had begun to entertain a new idea, or a new interpretation of the phrase, "Representation of the people by Universal Suffrage and Annual Elections,"

arising out of the proceedings of the National Convention of France, or if not arising out of them, yet to be now adopted, in consequence of the National Convention of France having exhibited that great scene on the theatre of the world, and to be now attempted to be carried into execution, is for your judgment. The presenter of these addresses has expressed an expectation, that felicitations might soon come over to a National Assembly here. What that National Assembly was to be, which was to be established here in England, and which was to be felicitated by France, will be a subject for your serious consideration, and must deserve and demand the deepest investigation.

Gentlemen, I have stated to you, that the only effect, in this case, which the language of the delegate, who presented this address, can have, is in respect of the adoption of it by the prisoner, and by the persons concerned with him. It was truly observed, that, if an agent be employed, it would be cruel to bind his principal to any thing in which he went beyond the bounds of his agency. It would be cruel to impute the acts of an agent to his principal; when that principal never approved of them; but, if the principal does approve of them; there is no hardship in such imputation; there is no cruelty or hardship whatever in making the principal accountable for the conduct of the agent, in construing the language of the agent to be the language of the principal.

Gentlemen, you will judge, whether those concerned to support this prosecution have, upon solid grounds, or otherwise, branded these proceedings with rank Republicanism, and with being a distinct avowal, that every one of those people was embarked in the cause of Republicanism: it is an extremely important point to settle; for, on your review of the subsequent transactions in this cause, they will undoubtedly have, and must have a very different complexion, as they are understood to be the proceedings of determined republicans, or as they are understood to be the proceedings of dutiful and loyal subjects to the king, zealously affected to the constitution of the country, as established in a King, Lords, and Commons. Men of the one description are entitled to a large, liberal, and candid interpretation of all their words and actions. Men of those other principles must expect to have their language, sentiments, and conduct referred to those principles.

Gentlemen, the next head of inquiry for you will be, the transactions of these societies, subsequent to the presenting of those addresses, and prior to the conception of the present design of a National Convention in England, which is the immediate subject of this prosecution; and you will examine, whether the persons who had taken this extraordinary step (which seems

called for  
a trial

thus addressed the National Convention, were actuated by the same principle of democracy which governed the Convention; I say, whether the authors of it, and the persons concerned in it, have in any manner redeemed themselves, by their subsequent conduct, from the imputation which the presenting these addresses has brought upon them. I stated to you, that, as far as voting an unqualified approbation goes, they immediately adopted the comment upon their own conduct, by their own agent, that probably a felicitation would come from France to a National Assembly in England. There is nothing done by these societies to discourage the expectation of a National Convention in England; you will judge whether they have not taken very active steps to prepare the way for it. The acts of these societies, more immediately referable to this subject, which have been laid before you, on the part of the prosecution, consist chiefly of resolutions, importing warm and unqualified approbation of the works of two celebrated writers, Thomas Paine and Joel Barlow; the first writing upon the Rights of Man, and the last on what was called the *Privileged Orders*. Parts of these works have been read to you, and they are a most direct attack on the establishment of the monarchy of this country; and they do attack more or less pointedly and directly the establishment of that order in this country—the House of Lords. The societies not only approved of these works, but they dispersed them all over the country, with a wonderful anxiety, and at a great expense. The prosecutors, in this case, have asked the question, why was this done? They say it is acting consistently, if it is done by Republicans, who wish to subvert the monarchy, and to overturn the established orders; but, if it is done by dutiful subjects of the king, and persons attached to the constitution of the country, what explanation can they give of it? In the defence that was made for the prisoner, it was observed, that there were parts of these works that went only, in general, to defend the Rights of Man in society, without going to the establishments of this country; that to such parts of these works, there could be no reasonable objection; and that those parts might, therefore, be disseminated by honest men and good subjects. Admit that the observation is fair; was it not the duty of honest men, and good subjects, who were disseminating such parts of these works as might serve to enlighten mankind, on subjects on which they ought to be enlightened, to have taken some pains to have separated the bad parts from the good, or at least to have given the public some caution, that, in reading those works, they should make a separation of themselves, that when they were reading of the general Rights of Man, and found passages striking at the monarchy of this country, they should be careful not to imbibe the doctrine? That when



reading observations on Privileged Orders, they should take care to remember, this was not intended to strike at the orders of this country, to which the public had a devoted attachment?

Such, gentlemen, would have been the conduct of good subjects. That this was not the conduct of these persons is most apparent; and that these publications must have had the effect of doing a great deal of mischief, by alienating the minds of the king's subjects from his person and government, and from the constitution, is perfectly clear. How much of this effect these persons intended, I shall leave entirely for your consideration; thus much I think is clear, that there is nothing in those publications which can serve to remove any prejudices which arise against the prisoner, and the persons concerned with him, from the addresses which was presented to the Convention of France.

Gentlemen, another general feature in the transactions of those men, at this period, is their numerous publications, complaining of grievances supposed to exist in this country, and the abundance of licentious observations scattered throughout these publications, all tending to produce the same effect—the alienation of the affections of the country from the king and government. Grievances may and will exist in all governments, and that they may exist in a greater or less degree, in this government, may be true; but dutiful and good subjects, who honestly mean the reform of these grievances, will take care, in their endeavours to procure this reform, not to hazard the overturning the government itself.

These are the transactions in the early part of the year 1793, upon which the prosecutors rely, as manifesting a spirit of disaffection and republicanism by which these men were actuated, and as evidence of their having taken measures to prepare men's minds for what they call a radical reform; in effect, a change in the whole government of the country.

It appears, that in the course of the summer of that year the project of a National Convention, to be held in Scotland, originated; and they say, on the part of the prosecution, and certainly not without colour (how far it is distinctly proved you will judge), that it originated with the prisoner at the bar. They refer you to a letter, written by the prisoner to Skirving in Edinburgh.

[See p. 407.]

Now you will hear the answer read which Skirving sent to that letter, and you will attend to it, because that answer is charged on the part of the prosecution to have a great deal of matter in it, tending to explain the mechanism of a National Convention, and also what was to be its great object.

[See p. 408.]

Gentlemen, every part of this letter de-

serves the most serious attention, in that view of it, which I pointed out to you just before the reading of the letter. I think there are some paragraphs in it which may require to be restated to you. This letter says,—“I have not a higher wish in the present exertions for reform, than to see the people universally and regularly associated; because I am persuaded that the present disastrous engagements will issue in ruin, and the people then must provide for themselves.” What do these mysterious words mean?—disastrous engagements to end in ruin! If we understand this to relate to any political engagements into which this country had entered, and which might end ill, the people would not have to provide for themselves; that would not dissolve the government. What does he mean, therefore, when he talks of these disastrous engagements, which are to issue in ruin, when the people are to provide for themselves?

“And it would be unhappy (says the writer of this letter) when we should be ready to act with unanimity, to be occupied about organization, without which, however, anarchy must ensue.” Organization of what? It is true, that if the country was to be brought to such a state, that the government was to be destroyed and another form of government to take its place, it would be unhappy when we should be ready to act with unanimity to be occupied about organization of the new powers of government, without which anarchy must ensue.—Does the writer mean this, or what does he mean? He goes on—“We will not need but to be prepared for the event, to stand and see the salvation of the Lord. Let us, therefore, take the hint given us by our oppressors; let us begin, in earnest, to make up our minds relative to the extent of reform which we ought to seek.”

The extent of reform which they ought to seek, according to the defence was distinct, and well known, and had been so a great while, for it was the duke of Richmond's plan of reform.

He adds—“Be prepared to justify it, and to controvert objections; let us model the whole in the public mind; let us provide every stake and stay of the tabernacle which we would erect: so that when the tabernacles of oppression, in the palaces of ambition, are broken down, under the madness and folly of their supporters, we may then, without anarchy and all dangerous delay, erect at once our tabernacle of righteousness, and may the Lord himself be in it.”

What does this mysterious man mean? What is this tabernacle of righteousness to be erected at once, without anarchy and dangerous delay? are they right on the part of the prosecution when they say, that he means that it is probable there may soon be a revolution in the government of this country, and that, in that case, it would be fit some body of men should be ready to take

that having had this communication with Skirving on the subject, he had an opportunity of weighing it.

There is in the evidence another exposition of a national convention, it may be proper that I should mention it, but I shall not state it with great particularity, because, under the circumstances of this case, I do not think it ought to press much against the prisoner.—I mean the speech of Barrère on the subject of a national convention; in which he takes a great deal of pains to show, that it is a thing perfectly consistent with an established government.—That a national convention was the authority of the people at large, which might consist with the established governments of all countries. The use that might be made of this doctrine, by those who wished to reconcile the people to a national convention as a constitutional measure, is apparent, and the probable consequences of such a convention not less apparent. And here it is fit that I should take some notice to you of a circumstance not wholly unconnected with this part of the subject: It was observed to you by the leading counsel on the part of the prisoner (to whom I am always desirous of paying attention), and the observation was repeated, that a people had a right to alter their government. That proposition, under certain circumstances, may be true; but it ought not to have been introduced into a court of justice, bound to administer the law of the existing government, and to suffer no innovation upon it. I did not interrupt the learned counsel when he stated this proposition, because I did not wish to stop him, or to disconcert the chain of his argument; but having passed it by upon that occasion. I feel it my duty to no-

Skirving's project of a land; he recommends it in an official letter to his colleagues to propose to them to send a convention; and, in that letter, he is not to take notice of the communication with him. Hardy, appears quite in a way was certainly not an inactive society, independent of the society. Had he acted it might be said, he might in a great many things; ten many things which he might or which he had not time might write whole sheets of idea of the sense after he was, therefore, very much consider the prisoner only; here he certainly is a prisoner extraordinarily so; a prisoner great share of the spirit of the city, which totally changed the man, as it might be from all the rest of the evidence. A letter is written according and the delegates are appointed two very able men, viz. Mr. The Scottish Convention, for fourteen days, and were authority. What would that Scottish Convention, persed, one can only conjecture to form any rational conjecture to attend to the general convention. It is fit you should memory just the leading pressed on you, on behalf the meeting of the delegates

consent to it only because it would prepare men for what was to follow, and serve to keep the public mind in agitation upon that subject. Considering this convention as assembled, in order to procure a reform in parliament, it would be fit to compare the means with the end, and then judge whether this ostensible purpose was the only purpose of this convention.

When there was a motion made, that a scroll of a petition to parliament should be prepared, they negatived it, and therefore, if that was their only object, the purpose of their meeting was at an end; but, laying that object aside, view this convention as it was; you find it closely imitating the manners of the National Convention of France; you hear of primary assemblies and sections; you perceive this National Convention assuming to itself a formality of proceeding which is very becoming where it is subject to no just exception, but in the place in which it appears, certainly very alarming. We find the convention is constituted every day by solemn prayer; it is closed every day by solemn prayer. They had their committee of finances; their patriotic donations, with honourable mention; their order of the day; their appellation of citizen; and after the tenth day they assumed this date, *The first year of the British Convention*: recollect, how all this follows the language of the National Convention of France. Who shall say what would have happened if that convention had not been dispersed at the end of fourteen days? Who shall say that if they had continued to assume in the manner in which they had begun, and some interval had been permitted to them, and that in that time they had happened to gain the public opinion in their favour, judging by what happened in France, who shall say that this body of men would not have been the government of this country? This convention was, however, dispersed; the consequence of which has been, that legal proceedings have taken place against some of the members, upon which it would not become me in this place to make any observations, except that occasion has been taken to complain of these proceedings as a grievance, and most certainly the prisoner, and those who are connected with him in these societies, did take occasion from thence to irritate the public mind to as great a degree as it was possible to do, by the reflections that were made on these proceedings.

Gentlemen, there immediately followed upon the reflections which were dispersed on the subject of these proceedings, the plan of a British Convention to be held in England; which leads us to the point to which the whole of the present inquiry is to have its relation, more or less. Now it deserves serious attention on your parts to the circumstances with which this new plan of a convention was introduced to the public notice, and by which it was recommended to the public attention; in order to enable you to judge, whether the

object of it was that peaceable object which is insisted on for the prisoner; whether a reform in the Commons House of Parliament was really the bottom of the whole; or whether the object of it must have been to alter the constitution of our government, to obtain indeed a full and perfect representation of the people, but not in the Commons House of Parliament.

One should have apprehended that under any provocation which these people professed to have felt, or which they might really feel, they would have pursued a very different course from that which they did pursue, as they were acquainted with the circumstances of the dispersion of the former convention, and with all the objections that were made to that convention. As they were determined to have another convention, it was to be expected that, at least, they would have taken care so to guard their language and proceedings, that it should be impossible they could be misunderstood; to have expressed themselves clearly and distinctly on all occasions; to have explained the grounds of this convention; to have conducted themselves with a decent moderation towards the government of the country, and towards its proceedings. It might reasonably have been expected that they would have made an express avowal of loyal sentiments, and an express disavowal of going any lengths which could be justly objected to; an express disavowal of going beyond the original object of parliamentary reform, as stated by the duke of Richmond. Every thing that was inflammatory ought to have been most carefully avoided, in order to prevent their purpose being misunderstood; and what was more material, in order to ensure success to the measure itself. What was done you will see, and from that you will form your own conclusions. They published a paper, which you will hear read, and you will attend to it. I do not consider it as my business to make particular comments on it, let it make its own impression on your minds. The paper I refer to (there are many which are connected with it) is the address of the 40th of January, 1794, of the London Corresponding Society, at a general meeting held at the Globe-tavern.

[See page 441.]

Gentlemen, you have heard this paper read, it expressly refers to a convention; and it was certainly published at a time when an idea of a convention was in the minds of the people. Now you are to judge between the king and the prisoner upon the evidence which this paper affords, whether the object of that convention was merely to procure a free and full representation of the people in the Commons House of Parliament, and in the due course of law, and according to the constitution of the country, or whether that paper is to be understood as a manifesto to excite the people to overturn the government, and to direct



appointed a joint committee, who came to a resolution expressed in more guarded language, which you will hear read.

[See page 564.]

You see that this is a dry resolution to call a convention for the purpose of taking into consideration the proper method of obtaining a fair and full representation of the people. This is their object, as they think fit to express themselves upon consideration; and it certainly was not too late for them to have retracted any part of the rashness and violence of any former measure which they might have taken. If they, thinking they had been too violent in their expressions, or extravagant in their sentiments had come to this resolution, with a view to remedy the fault of their former proceedings, and confine the objects of the convention within its just limits, that consideration would, no doubt, have its due weight; but even in this resolution we find no declaration that they sought only a reform in the Commons House of Parliament, and that no attempt was meant against the King, and the jurisdiction and authority of the House of Lords.

There was a joint committee of correspondence and co-operation appointed by these societies to consider of the means for carrying this resolution into execution, and it appears that they entered into a very extensive correspondence both in England and in Scotland for that purpose; while that correspondence was going on, upon the 14th of April last, the London Corresponding Society held a general meeting; it seems to have been originally intended to have been held in a large room in Store-street: it was not held there probably

moderate tone; to point out the lawful objects they had in view, and to exclude all ideas of those objects. To be sure, their circumstances, might be proper; but if it should have been so, the second meeting was pursued giving a great deal of satisfaction. It was done at the former meeting of two thousand persons, and had an effect to impress the force was ready to act when they were determined to do so, which on the 20th of January was mulgated to the world, and in order to bring things back, and to correct the defects of their former violence, and to advance in the same way by the same means to the same end, their object, what must be the result, instead of coming forward with a declaration of their loyalty to the throne, and their attachment to the constitution, as respects the House of Lords, to remove away the impression of things, and remove all suspicion with respect to their future conduct, when coming forward with this manifesto comes forward in a questionable shape than it has ever before, and goes along with it the force, and may be understood that they are ready, if it shall be so, in support of their former measures, will hear these resolutions read, and you will form your own opinion on them.

[See p. 735.]

possible, if they attended to the subject, or if they had taken any advice, not to see that it was extremely criminal to publish those resolutions to two hundred thousand people? and as many more as might have an opportunity of looking at them. According to these resolutions, it was a probable case "that they would soon be in a state where the social compact would be actually dissolved, and that it would be necessary to appeal to that principle, that incontrovertible maxim of eternal justice, that the safety of the people was the supreme, and in cases of necessity, the only law," which admits but of one interpretation. If the social compact is dissolved, there is an end of the government, of course there must be the establishment of another in its stead; another government must be framed; this is therefore expressly encouraging the people to look out for the moment to arrive when another government was to be framed, to be erected on the ruins of the present establishment.

Gentlemen, it is of importance, with respect to the present question, that the eighth and tenth resolutions glance, not in an indirect manner, at the House of Lords, as a body in the constitution, not entitled to the respect of the people. Of what extreme consequence this was in the present moment you will see, because this was the moment in which, that which was to be done in the National Convention, was to occupy the minds of all people. And what was to be done? They say on the part of the prisoner, that he, and those who were associated with him, were in a dutiful, constitutional, and regular course, to collect the sense of all people, and then present the united wishes of the people, in a regular and constitutional way, to parliament. Now was that, or could that be the object of men who had assumed so much of the republican character, who after addressing the National Convention of France, had acted the part they had done, up to the present moment, who were then talking of the social compact being dissolved, and were then speaking contemptuously of the other branch of the legislature.

To this question, what was meant to be done in this convention, as resolved on, in January, 1793, and as followed up by the resolutions at Chalk-farm, on the 14th of April, belongs a transaction of a society at Sheffield, which has been a leading society in correspondence with the two societies here in London. The society at Sheffield, had been artificially represented to be extremely numerous; there was a meeting, in fact, of ten thousand, on the 7th of April, on the Castle-hill. Several resolutions were there passed; they were moved by a Mr. Yorke, not a native of that place, but who found his way among them, and made use of that opportunity. You have heard of Mr. Yorke being a member of the London Corresponding Society—under what directions he went to Sheffield, does not appear; how these resolutions were obtained, I

VOL. XXIV.

do not think it material to observe upon, farther than that it is a satisfaction to know, that though multitudes are made parties to these proceedings, there is every reason in the world to believe, that but few are engaged in the depth of the project. Of the ten thousand people assembled on the Castle-hill, there is no reason to suppose that two hundred knew what was going forward. A trick for negating a resolution to petition parliament, was concerted between four people, and by their manœuvring, and management, these resolutions passed in such a way, that it was impossible they could be understood by the greatest part of the people; but however that was, the promulgation of them to the world at this juncture, appears to have a very close connexion with this plan of a convention. It was proposed, and resolved, to petition parliament no more. It was observed by the counsel for the prisoner, that you cannot justly conclude, because an individual society, or those who conducted that society were of opinion that they should petition parliament no more, that therefore a body of men, more likely to command the attention of parliament, were not, according to their apprehension to apply to parliament, for a parliamentary reform.

It was fairly put, and it is right and fit to see whether the observation is founded in the truth of the case. When you come to examine the resolution with the context, it hardly admits of that interpretation, because the reason they assign for not petitioning is, that they will not petition a body who are not their representatives. Now that reason must apply to the House of Commons for ever, according to their notion of it, and as it was understood and adopted, by the Corresponding Society, and other societies with whom they were in correspondence. If it could not be the object of this convention to petition parliament, where shall we find the object, but in the addresses to the nation immediately preceding and immediately following the promulgation of the project, which appear totally inconsistent with the idea of a convention for the purpose of an application to parliament, and to be consistent with, and calculated to give effect to a convention for other purposes, and particularly for the purpose of concerting the means of establishing a representative government of the people?—There is a piece of parol evidence, which respects this point fit to be stated—Lynam says, that at one of their meetings, Bell observed that their address to the National Convention in France, proved that they meant to introduce their laws here to which Mr. Margatot said, no doubt. The other persons present said nothing, Hardy was present and this passed at a meeting of the delegates; if therefore he had no doubt, and if the nature of the transactions countenances that opinion, and if the transactions taken together should be irreconcilable to the other opinion, then there is a weighty evidence for your consideration, to prove the whole extent



of the proposition as it is stated on the part of the prosecution.

The parol evidence applies both ways, many of the witnesses for the crown expressly disavow all force upon the government, and every other object beyond a reform in the Commons House of Parliament; on the other hand, individuals are charged with having attempted to corrupt the soldiery, and to have meditated a personal attack upon the king, and direct force against his government; but this, however, I ought to observe, is not brought home to the prisoner. There is also parol evidence; though loose and unconnected, of a preparation of arms in which the prisoner is in some degree implicated. One witness, not of the best credit, said that they were to furnish themselves with arms to defend the National Convention when it should be called. This evidence in its nature is very important—this is clear, that in their idea of a national convention, every thing was therein to be conducted peaceably, and orderly, the national convention must then be protected from without, because it is by such a national convention being protected, and being left at liberty to act, that it could execute its orders and decrees; it seems, therefore, not inconsistent with the idea of a national convention which was to overturn the government, to inculcate peace, and good order; for the truth undoubtedly was, and these persons saw it, that whatever this national convention was to do, it must do by means of having the voice of the public going along with it. It was in that way only, that it could execute its purposes; the taking arms, therefore, to defend the national convention, has an immediate connexion with the charge. In the parol evidence it was also stated, that these people expected there would be a struggle before they obtained their object, and that they had made a preparation for it; several witnesses said, that their whole object, in furnishing themselves with arms was, to defend themselves against illegal attacks, and negatively, that they did not mean to attack the king, or the government. If they had no object beyond pure self-defence, they might lawfully furnish themselves with arms.

If they meant to put themselves into a condition to sustain their convention by force, against any attack which might be made upon it, or upon them in defence of it, —defence becomes offence and treason. Respecting the whole of this evidence as to arms, standing alone, I should have thought no great reliance was to be had upon it; connected, as it is, with the whole transactions of these bodies, it certainly is evidence very fit to be taken into consideration by the jury, and is of some use towards marking what was in the minds of the people at the time they proposed this convention, and whether their purpose was that which this prosecution charges—a purpose of subverting the government of the country, consequently deposing

the king, which is the king's death.

Gentlemen, I have evidence such parts of the evidence as I have to bear upon you may be able to see, and to judge for yourselves, whether they justify the charge, or not, it is laid.

But, before you are to attend, to every thing that is said of the prisoner.

Gentlemen, on the part of the writt, controverted: it could I do not think it likely that the prisoner should share in these transactions not only in strictness to the satisfaction principal in the world only secretary to a member of both, in one or two. He was the promoter of some of the measures, and therefore I did not think you with separate evidence which affected

Gentlemen, this and weighty observation of the materiality of the situation, of them introducing ties, for the purpose, what was passing, the subject matter particularly that necessary connexion, which I think there is a observation; and the circumstance, purpose of a convention, that, though suspicion, yet that to fix on the convention that extraordinary action has imputed evidence, taken furnishes.

Gentlemen, the prisoner thus:—The simplicity of manner in his deportment, of his political object, obtaining a radical House of Parliament, universal suffrage, he had taken the liberty in the name. They say, this has measures; and the concerned in this part



tion, his ideas on that subject were taken from that book; and there is certainly a very plain allusion in that book, to the people meeting together for the purpose of considering of the means to execute such parliamentary reform; that he had an expectation, highly encouraged by the language of that book, that the united sense of a great number of people by their delegates in convention, expressed to parliament, might perhaps have better success than petitions from individuals, whether they were considered as individual men, or as individual societies of men.

They farther insist for the prisoner, that there is to be found no proof of a design to use this convention to any other purpose; and that, as to the horrible purpose of subverting the government, they say, it is not only not proved, but, in the nature of the thing, is improbable, and even impossible, considering how disproportioned the means are to the end.—That, if it is to be considered as a proceeding of the same nature with the British Convention at Edinburgh, it ought not to be held to be treasonable, because that was treated as a misdemeanor only.—They say, whatever violence there may be in the language of the resolutions, addresses, and other papers to which the prisoner has been privy, there is in them no demonstration of the treasonable designs now imputed to him.

They appeal to the testimony of a great number of members of the different societies with whom he has been connected, for the soundness of their principles, and of his own; their dutiful attachment to the king, and their reverence for the constitution of parliament, and for the Lord's House of Parliament, as a branch of it.

And the prisoner also appeals to the character given of him by a cloud of respectable witnesses, who represent him as a peaceable, sedate, religious and moral man, having as many of them collect from his conversation, this one object a reform of parliament; and, as a particular manifestation of the conscious innocence of his conduct, they refer you to a proposition which he made to Mr. Sheridan, when that gentleman proposed to bring the proceedings of these societies before parliament, in the spring of the year 1793:—the prisoner offered to show him his books, papers, and, in short, all his correspondence, that had any relation to the subject, and was ready to lay them before parliament.—He is also represented by Mr. Francis, as appearing to him to be deeply engaged in this business of a parliamentary reform, and sincerely desirous of obtaining it, in the regular course, by petition to the House of Commons; and it appears that he brought a petition to Mr. Francis, as from the society to which he belonged, to be by him presented to parliament.—This was in May, 1793.—The petition, I should add, was on the plan of the duke of Richmond; and it may be true, that this plan may have received countenance from the protest which

has been read to you from the Lord's Journals, made by a great number of the lords in parliament, and containing sentiments which, if you suppose it to have fallen into the hands of inferior men, who happen to be eager enthusiasts, certainly might have great weight with them.—But, gentlemen, you will observe what the duke of Richmond's plan and the protest go to; if a question were to arise, whether, in a clear case of a project, strictly according to the duke of Richmond's plan, and strictly according to the protest, any crime could be fastened upon the assembling a convention for the purpose of promoting the project, these sentiments would have their weight:—Here the application fails; nobody can suppose that either the duke of Richmond's plan, or the language of the protest, goes in the smallest degree to countenance a convention for the purpose of introducing a democracy into the country, which is the purpose now imputed to this prisoner.

I have already given it as my opinion, that it ought to be conceded to the prisoner, that really, and truly, when he set out in this business, he was sincerely attached to that reform, as expressed in the duke of Richmond's plan; and probably, at that time, he had no idea of going beyond it; but the question now before you is, whether he has not gone very far indeed beyond it.

Mr. Solicitor General, in his reply, has impeached some of the testimony that has been given for the prisoner, by implicating the witnesses belonging to some of these societies, in the violent measures which were adopted by these societies, and the Sheffield Society in particular, whose duplicity in their correspondence with the Constitutional Society, and the Society of the Friends of the People, of which I have already taken notice, is open to a great deal of observation.—Though men declare upon their oaths that they are peaceable and orderly, and sincerely attached to the constitution of the country, and to their king, yet, if they are found to be engaged in measures which imply directly the contrary, it does go very strongly to the credit of their testimony; for, in that case, their testimony is "*Protestatio contra factum.*"

Gentlemen, in the reply to that part of the evidence given by Mr. Francis, where he said the prisoner appeared to him to be perfectly sincere, it was observed, all this appears by the evidence to have been mere pretence and policy to carry on the general plan; the reply also observes on the evidence to his character, that though he has established by a cloud of witnesses, and in the most satisfactory manner, that he is in his private character a sedate, moral, religious, good man, yet that his conduct in all these transactions strongly marks, that he is so deeply tainted with enthusiasm that his moral character may be but a neutral circumstance. The counsel in reply mentioned the famous

case, when enthusiasm worked up to the utmost height produced the fifth Monarchy Men and that in their case the treason grew out of their religion.

They say on the part of the prosecution, that the acts done by this man, as they appear from all the evidence, are totally inconsistent with the professions he has made and the opinions he says he has entertained, namely, that his real object was only a reform in the Commons House of Parliament.

Gentlemen, upon the whole of this statement of the charge, the defence and reply and upon the whole course of evidence before you, you have now to exercise your judgments. I desire, that in exercising your judgments you will pay no more attention to any thing I have said than that which is necessary to lead you to the consideration of those points which seem immediately to constitute the particular charge against this man, and to the evidence by which it is supported; to those points, and to that evidence by which the defence may be supported, and to the answer given to that defence. Every verdict ought to be the jury's own and ought to proceed on clear grounds of fact.—It ought to do so in a case of this nature more particularly, if possible, because one great object of this prosecution must be that the country may be satisfied, that they may see that the public justice of it has taken its fair course, and that you, the jury, have well and truly tried and true deliverance made between the king and the prisoner at the bar, according to the law of the land and the oath which you have taken.

I am very sorry to have occasion to remark, that during the course of this trial the dignity of a court of justice has but too often been violated by improper behaviour both within and without doors; what it is men can mean by such conduct who do not wish at once to dissolve all government and the bonds of all society, I cannot imagine.—I trust I shall hear no more of this.—You will now withdraw, gentlemen, and consider of your verdict.

*One of the Jury.*—My lord, we wish to have a copy of the indictment to take out with us.

*Lord Chief Justice Eyre.*—I suppose there will be no objection to your taking out the indictment; it is not strictly regular, but I dare say it will be consented to on both sides.

Gentlemen, I must apprise you, that after you have withdrawn there can be no refreshment given to you.—Do you wish to take any moderate refreshment before you withdraw?

*One of the Jury.*—My lord, we thank you, we shall not have occasion for any.

[The Jury withdrew at thirty minutes after twelve o'clock at noon, and they returned again into Court at thirty-five minutes after three o'clock.]

*Thomas Hardy* set to the bar.

*Clerk of the Arraignment.*—Thomas Hardy, hold up your hand—Gentlemen of the jury, look upon the prisoner—How say, you, is Thomas Hardy guilty of the high treason whereof he stands indicted, or not guilty?

*Foreman.*—Not Guilty.

*Clerk of Arraignment.*—Did he fly for it?

*Foreman.*—Not that we know of.

*Prisoner.*—My fellow countrymen I return you my thanks.

[The prisoner was immediately discharged.]

*Lord Chief Justice Eyre.*—Gentlemen of the Jury; I ought to take the first opportunity, after this laborious attendance, very sincerely to thank you for the readiness with which you have sacrificed so much of your personal convenience, and with which you have undergone the fatigue of this trial.\*

For an account of the demonstrations of joy which were manifested on the acquittal of Thomas Hardy see the *New Annual Register* for the year 1794, p. 274.

\* The jury slept at the Hummums every night from the 29th of October, attended by the proper officers of the Court, sworn in the usual form. *Orig. Ed.*



## A D D E N D U M

### TO VOLUME XXIV.

#### TO HARDY'S CASE;

P. 211, l. 2. *Note to the words "October the sixth."*

In Sibly's Report of the Trial of Thomas Hardy, the preliminary proceedings from the sixth to the twenty-seventh of October inclusive, are detailed at much greater length than in the text. The following is Sibly's account :

*Session-House, Clerkenwell—Monday, Oct. 6.*

The Court met at ten o'clock, when the grand jury had not a bill ready to return. About two o'clock the Lord Chief Baron appeared on the bench, when a true bill was returned against the following persons for high treason :

Thomas Hardy,	Thomas Holcroft,
John Horne Tooke,	John Richter,
Jn. Augustus Bonney,	Matthew Moore,
Stewart Kydd,	John Thelwall,
Jeremiah Joyce,	Richard Hodgson, and
William Wardle,	John Baxter.

The bill against John Lovett was not found.

The jury thanked the chief justice for the charge delivered to them the day on which the commission opened, which, at their request, was ordered to be printed. The judge thanked them in return for the compliment. As he would not affect to say that he delivered it without notes, he would cheerfully acquiesce in their request. His lordship observed, that the jury had attended four days, and wished to know if they should proceed any farther that day? or if they meant to adjourn? After this conversation, they agreed to adjourn to next day at ten o'clock.

The *Attorney-General* made the usual motions, that copies of the indictments be given to the prisoners.

The *Chief Justice* wished to know of the attorney-general, what time he would be in readiness to deliver to the prisoners the panel of the jury, &c. as ten days were required before the trials could commence.

The *Attorney-General* said, he should be able to answer, and settle the business next day.

The *Chief Justice* next called upon the persons who attended as agents, solicitors, and

others for the prisoners, and informed them, that by the usual application they may have access to the prisoners. He said, he would not harass the prisoners by having them brought up until their arraignment—to inform them of these particulars, for that copies of their indictments should be left with them, and wished this information might be immediately communicated.—And then the Court adjourned.

#### A LIST OF THE WITNESSES SUBPENAED.

*Middlesex.*—THE KING against THOMAS HARDY, JOHN HORNE TOOKE, JOHN AUGUSTUS BONNEY, STUART KYDD, JEREMIAH JOYCE, THOMAS WARDLE, THOMAS HOLCROFT, JOHN RICHTER, MATTHEW MOORE, JOHN THELWALL, RICHARD HODGSON, AND JOHN BAXTER.

#### Upon an Indictment for High Treason.

*Alexander Aitcheson*, student of medicine, residing in Canongate, of Edinburgh, in the parish of Canongate, in the county of Edinburgh, a prisoner in the Tolbooth of Edinburgh.—*Henry Alexander*, abiding at the Rose-tavern, Fleet-market, in the city of London, linen-draper.—*Daniel Adams*, of Tooke's-court, Curstitor-street, in the county of Middlesex, gentleman.—*George Allen*, of Turner's-court, Bedford-bury, in the county of Middlesex, one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*John Armstrong*, of Kingsland-road, in the parish of St. Leonard, Shoreditch, in the county of Middlesex, one of the constables attending the police-office, in Worship-street, in the said county.—*James Agar*, of Hare-court, in the Temple, barrister at law.—*Joseph Butterworth*, of Fleet-street, London, bookseller.—*John Bullock*, of Church-yard-court, in the Inner Temple, London, stationer to the Board of Ordnance.—*Wm. Broomhead*, of Watson's-walk, Sheffield, in the county of York, cutler and scissar finisher, now in custody, at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.—*Grant Broughton*, one of his majesty's messengers in ordinary, abiding at the house of the right honourable the marquis of Salisbury, in Arlington-street, in the county of Middlesex.—*Bernard Bylesley*,



Union-crescent, Kent-road, in the county of Surrey, gentleman, one of the clerks of the police-office, in Lambeth-street, Whitechapel, in the county of Middlesex.—*Joseph Burchell*, of the Sheriff's-office, in Took's-court, and residing in Great James-street, Bedford-row, in the county of Middlesex, attorney at law.—*George Cheek Barnes*, of Noble-street, Goswell-street, in the county of Middlesex, printer.—*John Boulton*, of Red lion-court, Charterhouse-lane, London, newsman and ticket porter.—*Thomas Blackburne*, of Craven-street, City-road, in the county of Middlesex, paper hanger and undertaker.—*William Black*, of York-street, Westminster, in the county of Middlesex, green-grocer, and one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.—*Robert Beresford*, residing at the corner of Bennet's-court, Drury-lane, in the county of Middlesex, taylor and green-grocer, and one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.—*Arthur Blake*, of Devonshire-street, Portland-place, in the county of Middlesex, esq.—*Richard Bennet*, of Redman's-row, Bethnal-green, in the county of Middlesex, warehouse-man.—*Wm. Barclay*, of Duke's-court, St. Martin's-lane, in the county of Middlesex, shoemaker.—*Nathaniel Birch*, of Vine-street, in the parish of St. John, Westminster, in the county of Middlesex, labourer, one of the patrols attending the public-office in Bow-street, Covent-garden, in the said county.—*Anthony Beck*, of Oxford-street, in the county of Middlesex, saddler.—*John Bursay*, of Blackman-street, in the Borough of Southwark, in the county of Surrey, one of the clerks in the Auditor's-office, Somerset-place.—*John Bone*, of Weston-street, Snowfields, Southwark, in the county of Surrey, muslin clearer.—*William Cannage*, of Fargate-street, Sheffield, in the county of York, ink-bottle maker, now in custody at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.—*John Child*, of Crown-street, Westminster, in the county of Middlesex, one of his Majesty's messengers in ordinary.—*John Coates*, a soldier, in the Birmingham Volunteers, late of China-walk, Lambeth, in the county of Surrey, apprentice to John Philip Francklow, taylor, and now residing with his father, Christopher Coates, of Little College-street, Westminster, in the county of Middlesex.—*Stephen Cottrell*, of Grosvenor-place, in the county of Middlesex, esq. one of the clerks of his Majesty's most honourable privy council.—*Wm. Carter*, of Angel-alley, Long-acre, in the county of Middlesex, bill-sticker.—*Patrick Colquhoun*, of Charles-square, Hoxton, in the county of Middlesex, esq. one of the justices of the police-office, in Worship-street, Shoreditch, in the said county.—*Thomas Chapman*, of Fleet-street, London, bookseller.—*John Combes*, of Oakham, in the county of Rutland, attorney at law.—*Chris-*

*topher Cridland*, of Kemp's-court, Berwick-street, Soho, in the county of Middlesex, shoemaker, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*Thomas Carpmael*, of Bow-street, Covent-garden, in the county of Middlesex, victualler, and one of the constables attending the public-office, in Bow-street aforesaid.—*Henry Croker*, of Tottenham court-road, in the county of Middlesex, broker, and one of the constables attending the public-office in Bow-street, Covent-garden in the said county.—*John Chapman*, of Dean-street, Fetter-lane, London, labourer.—*Alexander Corney*, of Red lion-court, Watling-street, in the city of London, shoe-factor.—*James Clerk*, esq. sheriff depute of the county of Edinburgh, residing in George-square, in the parish of St. Cuthbert's, in the said county.—*John Chutfield*, of Bark-hill, Hatton-garden, in the county of Middlesex, timber merchant.—*Bernard Cobbe*, of Walnut-tree-walk, Lambeth, in the county of Surrey, one of the clerks in the Auditor's-office, Somerset-place.—*William Clarke*, of Mount-row, Lambeth, in the county of Surrey, messenger to the solicitor for the affairs of his majesty's treasury.—*Henry Dealtry*, of Essex-street, in the county of Middlesex, clerk of the rules, on the crown side of his majesty's court of King's bench.—*Richard Dawson*, of Sheffield, in the county of York, printer.—*James Davidson*, of Russel-place, Russel-street, Covent-garden, in the county of Middlesex, printer.—*William Dukin*, of Downing-street, Westminster, door porter at the office of lord Grenville, one of his majesty's principal secretaries of state, situate in Downing-street aforesaid.—*Joseph Dehaffe*, of Gerard-street, Soho, in the county of Middlesex, bookseller.—*Joseph Edwards*, the younger, of Jewin-street, London, silversmith, now in custody at the house of William Needham, in Cork-street, Hanover-square, in the county of Middlesex, one of his Majesty's messengers in ordinary.—*Daniel Isaac Eaton*, of Newgate-street, London, bookseller.—*Henry Eaton*, of Newgate-street, London, the son of Daniel Isaac Eaton, of the same place, bookseller.—*Evan Evans*, late a prisoner in the custody of the marshal of the Marshalsea, of the court of King's-bench, grocer, now residing at the house of Samuel Giles, at Newington causeway, in the county of Surrey.—*Ann*, the wife of the above-named Evan Evans, now residing at the house of Samuel Giles, at Newington-causeway, in the county of Surrey.—*Samuel Edwards*, of Beaufort-buildings, in the Strand, in the county of Middlesex, wine merchant.—*John Frost*, late of Spring-garden, Westminster, but now of Pinner, in the county of Middlesex, gentleman, late an attorney of the court of King's bench.—*Richard Fild*, of Sloane-street, in the county of Middlesex, esq. one of the justices at the Public-office in Bow-street, Covent-garden, in the said county.—*William Falkner*, of South-street,



Park-lane, in the parish of St. George, Hanover-square, in the county of Middlesex, esq. one of the clerks of his majesty's most hon. privy council.—*Edward Fugion*, of the Pleasant-retreat, Palmer's-village, Tothill-fields, in the county of Middlesex, shoemaker, and one of the officers of the Public-office in Bow-street, Covent-garden, in the said county.—*William Henry Fallofield*, of Luner-Scotland-yard, in the county of Middlesex, attorney at law.—*William Fitzgerald*, of the Middle-temple, London, barrister at law.—*John Fairley*, of Broughton, in the parish of St. Cuthbert's, in the county of Edinburgh, wright, a prisoner in the Castle of Edinburgh.—*Isaac Fawcett*, the younger, of Camomile-street, Bishopgate-street, in the city of London, attorney at law.—*Thomas Furnage*, of Windmill-street, Tottenham-court-road, in the county of Middlesex, collector of the rate for paving, &c. within the parish of Saint Pancras, in the said county.—*Wm. Fletcher*, of Lincoln's-Inn, in the county of Middlesex, barrister at law.—*Duncan Grant*, of Strutton-ground, Westminster, in the county of Middlesex, one of the constables attending the Public-office in Bow-street, Covent-garden, in the said county.—*Edward Gosling*, late of Hoxton, in the parish of Saint Leonard, Shoreditch, in the county of Middlesex, but now residing at the house of James Bisset, Upper-broker-row, Moorfields, in the said county, and clerk to William Wickham, esq. one of the justices at the police-office in Lambeth-street, Whitechapel, in the said county.—*John Gurnell*, of King-street, Westminster, in the county of Middlesex, one of his majesty's messengers in ordinary.—*Richard Gay*, of Hopkins-street, Saint James's, in the county of Middlesex, drug and perfume grinder, a prisoner in the custody of the Marshal of the Marshalsea, of the court of King's-bench, in the King's-bench-prison, in Saint George's-fields, in the county of Surrey.—*Thomas Green*, of Orange-street, Leicester-fields, in the county of Middlesex, perfumer.—*John Gurney*, of Essex-court, in the Middle-temple, barrister at law.—*Alexander Grant*, of Wardour-street, Soho, in the county of Middlesex, printer.—*William Gatabed*, of Hosier-lane, West-smithfield, London, newsman.—*Roger Gastrell*, of Hemlock-court, Carey street, in the county of Middlesex, taylor, and green-grocer, and one of the constables attending the Public-office, in Bow-street, Covent-garden, in the said county.—*Arthur Gliddon*, of Great Ormond-street, Queen-square, in the county of Middlesex, attorney at law.—*John Griffiths*, of Plumber's-row, Mile-end-old-town, in the county of Middlesex, carpenter and joiner, and one of the constables attending the police-office in Lambeth-street, Whitechapel, in the said county.—*Thomas Griffiths*, of Fashion-street, Spital-fields, sawyer, and assistant constable at the police-office in Lambeth-street, Whitechapel, in the county of Middlesex.—*Thomas Glegg*, No. 60,

Charing-cross, Westminster, in the county of Middlesex, gentleman, clerk to Mr. White, of No. 6, Lincoln's-inn.—*John Groves*, of Crown-court, Russel-street, Covent-garden, in the county of Middlesex, gentleman.—*Richard Hayward*, of Friendly-place, Shoreditch, in the county of Middlesex, wax-chandler, now a prisoner in his majesty's gaol of Newgate.—*George Higgins*, of South-street, in the parish of Saint George, Hanover-square, in the county of Middlesex, one of his majesty's messengers in ordinary.—*Christopher Hull*, of Chancery-lane, attorney at law.—*Edward Hodson*, of Bell-yard, near Temple-bar, printer.—*Henry Hill*, of Fargate-street, in Sheffield, in the county of York, cutler, now in custody at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.—*John Hancock*, of Chichester-rents, in Chancery-lane, in the county of Middlesex, gentleman, clerk to Mr. White, of No. 6, Lincoln's-inn.—*William Huskisson*, of Pall-mall, in the county of Middlesex, esq. chief clerk in the office of the right hon. Henry Dundas, one of his majesty's principal secretaries of state.—*Edward Harcey*, of Lamb-street, Spital-square, in the county of Middlesex, warehouseman.—*John Hollingworth*, of Threadneedle-street, London, banker.—*John Hillier*, of Bishopgate-street, London, bookseller, now a prisoner in his majesty's gaol of Newgate.—*Jeremiah Samuel Jordan*, of Fleet-street, in the city of London, bookseller.—*Joseph Johnson*, of St. Paul's Church-yard, in the city of London, bookseller.—*Joseph Clayton Jennings*, of Hart-street, Bloomsbury, in the county of Middlesex, barrister at law.—*Charles Jealous*, of Brownlow-street, Drury-lane, in the county of Middlesex, saddler, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*Joshua Joyce*, of Essex-street, in the Strand, in the county of Middlesex, tallow-chandler.—*Thomas Jones*, of Milford-lane, in the Strand, in the county of Middlesex, labourer, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*William Jones*, esq. of St. George's-fields, in the county of Surrey, marshal of the Marshalsea, of the court of King's-bench.—*David George Jacmur*, of Frith-street, Soho, in the county of Middlesex, one of the clerks in the Auditor's office, in Somerset-place.—*William Johnson*, of the Inner-temple, London, attorney at law.—*John King*, of Queen-street, Queen's-square, Westminster, in the county of Middlesex, esq. one of his majesty's under secretaries of state.—*John Kirby*, keeper of his majesty's gaol of Newgate, residing there.—*Christopher Kennedy*, of Cross-court, Broad-court, Long-acre, in the county of Middlesex, carpenter, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*William Knight*, of Windmill-street, Piccadilly, in the county of Middlesex, shoemaker.—*David Kirghorn*, gentleman, gaoler, of his



majesty's Tower of London, abiding there.—*William Lowndes*, of the Middle-temple, London, barrister at law.—*Edward Lousun*, of Little George-street, Westminster, in the county of Middlesex, one of his majesty's messengers extraordinary.—*James Lyon*, messenger at arms, residing at the house of James Cooper, in Advocate's-close, in the city of Edinburgh.—*George Lynam*, of Walbrook, London, ironmonger.—*Edward Lavender*, of Drury-lane, in the county of Middlesex, attorney at law, and chief clerk of the public-office in Bow-street, Covent-garden, in the said county.—*Arnold Langley*, of Gloucester-street, Queen's-square, in the county of Middlesex, gentleman, clerk to Mr. White, No. 6, Lincoln's-inn.—*Wm. Lockhart*, sheriff clerk depute of the county of Edinburgh, residing at Newhaven, in the parish of St. Cuthbert's in the county of Edinburgh aforesaid.—*David Lloyd*, of York-street, Westminster, in the county of Middlesex, footman to Mrs. Campbell, of Bury-street, St. James's, in the same county.—*Robert Moody*, of China-square, Sheffield, in the county of York, carpenter and joiner, now in custody at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.—*Thomas Maclean*, of Whitehall, in the county of Middlesex, one of his majesty's messengers in ordinary.—*John Moore*, of Gray's-inn, in the county of Middlesex, attorney at law.—*Merry*, of Ramsgate, in the county of Kent, doctor of physic.—*William Mainwaring*, of Hanover-square, in the county of Middlesex, esq. one of the prothonotaries of the court of Common Pleas.—*George Munro*, of George-street, Manchester-square, in the county of Middlesex, esq. a captain in the army.—*William Metcalfe*, of Dowgate-hill, in the city of London, attorney at law.—*Patrick Macmanus*, of Stanhope-street, Clare-market, in the county of Middlesex, hatter, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*Andrew Milne*, of Great Russell-street, Bloomsbury, in the county of Middlesex, shopman to Mr. Jordan, bookseller, in Fleet-street, London.—*Joseph Mack*, clerk in the Sheriff-clerk's office in Edinburgh, residing in Castle Wynd, in the city of Edinburgh.—*William McCubbin*, writer, residing in the house of John Donaldson, smith and room-setter, in Todderick's Wynd, in the city of Edinburgh.—*Alexander Mitchell*, linen manufacturer, residing at Strathaven, in the parish of Strathaven, in the county of Lanark.—*Arthur M'Ewan*, of the Water of Leith, in the parish of St. Cuthbert's, in the county of Edinburgh, weaver, a prisoner in the Tolbooth of Canongate, of Edinburgh.—*Walter Miller*, wright and merchant, of the High-street of Perth, in the parish of Perth, in the county of Perth, a prisoner in the Tolbooth of Edinburgh.—*John Miller*, of Duke's-court, Bow-street, Covent-garden, in the county of Middlesex, one of the constables attending

the public-office in Bow-street aforesaid.—*Stephen Henry Murrell*, of Ray-street, Cold-bath-fields, in the county of Middlesex, auctioneer.—*Wm. Middleton*, one of the Sheriff's officers of the county of Edinburgh, residing in Warriston's close, in the city of Edinburgh.—*Joseph Milner*, of Aldermanbury, London, warehouseman.—*William Needham*, of Cork-street, in the parish of St. George, Hanover-square, in the county of Middlesex, one of his majesty's messengers in ordinary.—*Frederick Polydore Nodder*, of Brewer-street, Golden-square, in the county of Middlesex, botanic painter.—*John Nost*, residing at the Lord Chamberlain's office, in St. James's-palace, in the county of Middlesex, one of his majesty's messengers extraordinary.—*Evan Nepean*, of Scotland-yard, Whitehall, in the county of Middlesex, esq. one of his majesty's under secretaries of state.—*Randle Norris*, of Hare court in the Temple, clerk to Mr. Spinks, under treasurer of the society of the Inner-temple.—*Arthur Onslaw*, of Craven-street, in the Strand, in the county of Middlesex, barrister at law.—*Robert Orrock*, of Dean, in the parish of St. Cuthbert's in the county of Edinburgh, blacksmith, a prisoner in the castle of Edinburgh.—*George Orr*, of Camberwell, in the county of Surrey, tailor.—*Jane Partridge*, of Nottingham, spinster, the daughter of Mr. Partridge, of Nottingham aforesaid, apothecary.—*William Pope*, of Little Mary-le-bone street, in the county of Middlesex, blacking ball maker, and one of the patrols attending the public office in Bow-street, Covent-garden in the said county.—*John Pearson*, of Lincoln's-inn, in the county of Middlesex, student at law.—*James Parkinson*, of Hoxton-square, in the county of Middlesex, surgeon and apothecary.—*John Pearson*, of Fig-tree-court, in the Temple, gentleman.—*William Ross*, of Crown-street, Westminster, in the county of Middlesex, one of his majesty's messengers in ordinary.—*John Reeves*, of Cecil street, in the Strand, in the county of Middlesex, barrister at law.—*George Ross*, clerk, or late clerk in the Gazetteer-office at Edinburgh, of South-bridge, of Edinburgh, a prisoner in the Tolbooth of Edinburgh.—*Archibald Ruthven*, of Rodney-row, Newington-butts, in the county of Surrey, baker, one of the patrols attending the Public-office in Bow-street, Covent-garden, in the county of Middlesex.—*James Ridgway*, of York-street, St. James's-square, in the county of Middlesex, bookseller, now a prisoner in his majesty's gaol of Newgate.—*Thomas Clio Rickman*, of Upper Mary-le-bone-street, in the county of Middlesex, bookseller, and Jane his wife, of the same place.—*Samuel Reece*, of Carthusian-street, Charter-house-square, in the county of Middlesex, stationer.—*Isaac Saint*, of the city of Norwich, victualler, now in custody at the house of Thomas Wagstaffe, in South-street, in the parish of St. George, Hanover-square, in the county of Middlesex, one of his ma-



jesty's messengers in ordinary.—*John Thomas Slack*, of Buckle-street, Goodman's-fields, Whitechapel, in the county of Middlesex, stay-maker.—*Henry Delahay Symonds*, of Paternoster-row, London, bookseller, now a prisoner in his majesty's gaol of Newgate.—*William Sharp*, of Charles-street, Middlesex-hospital, in the county of Middlesex, engraver.—*John Shaw*, of Eaton-street, Pimlico, in the county of Middlesex, one of his majesty's messengers in ordinary.—*Thomas Symonds*, of Crown-office-row, Inner-temple, London, student at law.—*Matthew Swift*, of Gould's-buildings, near the New Church in the Strand, in the county of Middlesex, shoemaker, and one of the constables attending the police-office in Great Marlborough-street in the said county.—*George Sanderson*, of the bunch of grapes in Butcher-row, Temple-bar, in the county of Middlesex, victualler.—*Issue Clayton Smith*, of Artichoke-yard, Lambeth-Marsh, in the county of Surry, messenger in the office of the right hon. Henry Dundas, one of his majesty's principal secretaries of state.—*Thomas Shelton*, of the session-house in the Old-bailey, in the suburbs of the city of London, attorney at law.—*William Scot*, solicitor at law, residing in Merchant-street, in the city of Edinburgh.—*Daniel Stuart*, of Frith-street, Soho, in the county of Middlesex, gentleman.—*Thomas Stiff*, of Paternoster-row, in the city of London, hairdresser.—*John Shallard*, of Charlton-street, Sommers-town, in the county of Middlesex, pastry-cook, and one of the patrols attending the public-office in Bow-street, Covent-garden, in the said county.—*John Shelmerdine*, of the Grove, Southwark, in the county of Surrey, hatter.—*James Savage*, of Maiden-lane, Wood-street, London, warehouseman.—*William Sturch*, of Stanhope-street, Clare-market, in the county of Middlesex, iron-monger.—*John Taylor*, of Fleet-street, London, gent. now a prisoner in his majesty's gaol of Newgate.—*William Tims*, of Crown-street, Westminster, in the county of Middlesex, one of his majesty's messengers in ordinary.—*James Thornton*, of Weymouth-street, Cavendish-square, in the county of Middlesex, clerk at the Police-office in Great Marlborough-street, in the said county.—*Thomas Thompson*, of Shrub's-hill, near Bagshot, in the county of Berks, esq.—*Thomas Tourle*, late a prisoner in the custody of the marshal of the Marshalsea, of the court of King's-bench, dealer in timber and coals, now residing at the house of Samuel Giles, at Newington-causeway, in the county of Surrey.—*Joseph Towers*, of St. John-square, Clerkenwell, in the county of Middlesex, dissenting minister.—*James Templeton*, messenger at arms, residing in President's-stairs, in Parliament-close, in the city of Edinburgh.—*John Thompson*, of Oakham, in the county of Rutland, gardener.—*Mary Thompson*, the wife of George Thomp-

VOL. XXIV.

son, of Oakham, in the county of Rutland, gardener.—*John Townsend*, of Duke's-row, Pimlico, in the county of Middlesex, labourer, and one of the constables attending the public-office in Bow-street, Covent-garden, in the said county.—*Thomas Ting*, of King's-road, Chelsea, in the county of Middlesex, stage coachman, and one of the patrols attending the public-office in Bow-street, Covent-garden, in the said county.—*John Taylor*, of St. George's, Norwich, surgeon.—*John Thompson*, near the turnpike, in the New-road, St. George's in the East, in the county of Middlesex, assistant clerk at the public-office in Lambeth-street, Whitechapel, in the said county.—*John Tuplin*, of Mulberry-street, Mile-end Old-town, in the county of Middlesex, gardener, one of the constables attending the police-office, in Lambeth-street, Whitechapel, in the said county.—*William Taylor*, of Bridge-street, Westminster, in the county of Middlesex, esq. one of the clerks in the office of the rt. hon. lord Grenville, one of his majesty's principal secretaries of state.—*Felix Vaughan*, of Crown-office-row, Inner-temple, London, barrister at law.—*John Vellam*, of Oakham, in the county of Rutland, butcher and grazier.—*Thomas John Upton*, of Bell-yard, near Temple-bar, watch-maker, and machinist, now prisoner in the New Prison, Clerkenwell, in the county of Middlesex.—*Alexander Willis*, of Harley-street, in the county of Middlesex, dancing master.—*Samuel Williams*, now in custody at the house of Mr. Fordham, in Lambeth-street, Whitechapel, in the county of Middlesex, coach-master, apprentice to and late abiding with Joseph Whifton, at Tower-stairs, Tower-dock, London, gun engraver.—*John Williams*, of Leicester-fields, in the county of Middlesex, wine merchant.—*George Williams*, of West-smithfield, London, leather-seller.—*Thomas Wagstaffe*, of South-street, in the parish of St. George, Hanover-square, in the county of Middlesex, one of his majesty's messengers in ordinary.—*William Wickham*, of St. James's-place, in the county of Middlesex, esq. one of the justices of the police-office, in Lambeth-street, Whitechapel, in the said county.—*John Wharton*, of Skeiton-castle in the county of York, esq.—*Joseph White*, of Essex-court, Middle temple, and of Lincoln's-inn, in the county of Middlesex, attorney at law, and solicitor for the affairs of his majesty's treasury.—*William Walker*, of Buckingham-street, in the Strand, in the county of Middlesex, attorney at law.—*James Walsh*, late of the Strand, in the county of Middlesex, but now abiding at Hatfield, in the county of Hertford, gent.—*William Woodfall*, of Salisbury square, Fleet-street, London, printer.—*Henry Sampson Woodfall*, late of No. 1, the corner of Ivy-lane, Paternoster row, printer, but now of Chelsea, in the county of Middlesex, gent.—*George Williamson*, messenger at arms, residing in President stairs, in Parliament-close, in the city of Edinburgh.—*John*



Watts, of Rosemary-lane, Whitechapel, in the county of Middlesex, dyer.—*Thomas Whitehorn*, abiding at the house of Mr. John King, in Cumberland-street, Tottenham-court-road, in the county of Middlesex, and shopman to Mr. Baxter, near Cecil-street, in the Strand, in the said county, bookseller.—*George Widdison*, of Fargate-street, Sheffield, in the county of York, hair-dresser, now in custody at the house of Mrs. Mary Parkinson, in Little Charles-street, Westminster, in the county of Middlesex.—*Thomas Wiffin*, of Fludyer-street, Westminster, in the county of Middlesex, one of his majesty's messengers in ordinary.—*Thomas Wood*, of Red-lion street, Holborn, in the parish of St. George the Martyr, in the county of Middlesex, lottery inspector.—*William Worship*, of Ball-alley, Lombard-street, London, engraver.—*Richard Williams*, of Oakham, in the county of Rutland, clerk.—*Richard White*, of Piccadilly, in the parish of St. James's Westminster, in the county of Middlesex, oilman.—*George Willington*, of the Inner-temple, London, attorney at law.—*John Wigglesworth*, of Somerset-place, in the county of Middlesex, esq. one of the inspectors general of accounts in the Auditor's office there.—*John York*, of his majesty's Tower of London, and deputy-lieutenant thereof.—*Matthew Yatman*, of Percy-street, Rathbone-place, in the county of Middlesex, apothecary.

The following is a List of the PETTY JURORS summoned.

*Acton*. Thomas Buck, esq.  
*Back-lane*. John Warner, gent.  
*Baker-street, Portman-square*. Thomas Skipp, Dyott Bucknell, esq.  
*Barnet*. Benjamin Bradbury, Fryer's lane, Fryer's-barnet, gent.  
*Bedford-square*. Joseph Shrimpton, esq.  
*Bethnal-green*. Josiah Boydell, gent.  
*Bow*. Thomas Sayer, esq. and distiller; Edward Gordon, esq. and brewer; Mark Hudson, esq. and brewer.  
*Brentford*. Hugh Ronalds esq. and nurseryman; David Roberts, distiller.  
*Broad-street, St. George's in the East*. Joseph Ainslie, coal-merchant.  
*Bromley*. Nathaniel Stonard, brewer; Charles Smith, distiller; Christopher Metcalf, esq. and distiller.  
*Brompton*. Thomas Hammersly, esq. and banker; Hanbury Potter, Old Brompton, esq.  
*Buckingham-street*. Archibald Paxton, wine-merchant.  
*Bur-street, East-smithfield*. Thomas Allen, brewer; Rice Davies, esq.  
*Chancery-lane*. Richard Masters, esq. and banker; Thomas Druce, stationer.  
*Charing-cross*. Charles Fourdrinier, stationer; James Shepnell, silversmith.  
*Charlotte-street, Rathbone-place*. Edward Campion, esq. and wine-merchant; Isaac Marl, gent.

*Charterhouse-square*. Lacy Primatt, esq. and chemist.

*Cheney-street, Bedford-square*. John Peavey, cooper.

*Chiswick*. Thomas Laurence, Strand on the Green, esq. John Thompson, brewer; Thomas Beach, Strand on the Green, esq.

*Clerkenwell*. Apsley Pellatt. St. John's-street, ironmonger; John Guest, ditto, esq. and potter; George Fillingham, ditto, hop-factor; David Dean, ditto, cheesemonger; John Wright, Red Lion-street, watch case-maker.

*Cockspur-street*. James Oliphant, hatter; James Crompton, paper-hanging maker.

*Colnbrook*. Henry Bullock, this side of Colnbrook, esq.

*Dalton*. Cecil Pitt, esq.

*Downing-street, Westminster*. Thomas Maude, esq. and army agent.

*Duke-street, Westminster*. Calvert Clapham, gent.

*Ealing*. Thomas Wood, Hanging-hill, esq. and coal merchant; Richard Meux, esq. and brewer; Robert Winn, Lower-side, esq.; Richard Hunt, Windmill-lane, esq.; Sampson Bowles, esq. and haberdasher; John Baker, esq.; James Smith, esq. and perfumer; Robert Vincent, esq.; Thomas Smith, Upper-side, esq. and distiller; Edward Roberts, esq. Thomas Cheap, esq.

*Edgware*. Thomas Cockington, gent.

*Edmonton*. Daniel Gossett, esq. and broker; John Blackburn, esq. and merchant; Thomas Lewis, South-street, esq. and Irish factor, *Elstree*. Samuel Rudge, esq. John Rudge, esq.

*Enfield*. Matthias Dupont, of the Chase-side, gent. wine and brandy-merchant; George Capes, esq. and warehouseman; Richard Gough, Forty-hill, esq.; William Emerson, Bush-hill, esq.; John Horsley, Bull's-cross, esq.; Henry Purrier, Chase-side, esq.; George Ellward, ditto, esq. and upholder; Christopher Strothoff, Bull's-cross, esq. and merchant.

*Finchley*. Thomas Allen, East-end, esq.; William Hamerton, esq.; Thomas Gildart, Nether-street, esq. and merchant.

*Frith-street, Soho*. Alexander Trotter, esq. and upholder.

*Fulham*. Robert Lewis, North-end, esq.; John James, esq.

*Goodman's-fields*. Major Rhode, Lemon-street, esq. and sugar-baker.

*Goodwell-street*. Robert Hawkins, coal-merchant.

*Gray's-inn-lane*. Thomas Harrison, Con-keeper.

*Great George-street, Westminster*. Francis Jenks, gent.

*Greek-street*. Josiah Wedgwood, potter.

*Green-street, Grosvenor-square*. George Brooks, esq. and banker; James Fisher, the elder, esq.

*Hackney*. Thomas Boddington, esq. Charles Digby, Mare-street, esq.

*Hammersmith.* James Dorville, esq.; Simon Lesage, esq.; Bryan Marshall, gent. Benjamin Goodison, esq.; James Keene, grocer; Henry Osbaldiston, esq.

*Hampstead.* Philip Godsall, gent. and coachmaker; John Peter Blaquiere, esq. and merchant; Thomas Rhodes, Hampstead-road, cowkeeper.

*Hampton.* Thomas Chadwick, esq.; John Hillman, esq.

*Hanwell.* William Harwood, esq.

*Harlesdown-hill,* near *Harrow.* William Nichol, farmer.

*Hatton-garden.* Nathaniel Wright, surveyor.

*Hayes.* John Blencowe, esq.

*Hendon.* Michael Collinson, esq. Edward Hill, gent.

*Highgate.* Edward Hale, gent; Samuel Provey, esq. and weaver.

*High-street, Mary-le-bone.* James Sheridine, esq.

*Hillington.* Samuel Marsh, esq.; William Perry, esq. and doctor of physic; James Cook, esq.

*Holborn.* Robert Mairis, near Great Turnstile, gent.

*Hornsey.* David Duveluz, esq. and merchant; John Mayhew, esq. and upholder.

*Islington.* Samuel Pullen, gent.

*Kensington.* James Wheble, gentleman and tallow-chandler; John Walker, Square, esq.; Thomas Ayliffe, esq.; Samuel Palmer, esq.; Edw. Helme, Parson's-yard, esq. Jeffery Holmes, Young-street, esq.; Alexander Baxter, esq.; Edward Green, Square, esq.; Edmund Jennings, Young-street, esq.; Stephen Aisley, esq.; Robt. Willson, Square, esq.; Thomas Sanders, Phillimore-place, esq.; John Mason, esq.; John Battye, esq.; Thomas Burnett, Parson's-yard, esq.; John Robinson, esq.; Isaac Lucas, esq. and oilman; John Jenkinson, esq.; Thomas Robinson, Church-lane, esq. and gardener; John Butts, esq. and ironmonger.

*Knightsbridge.* Sir Joseph Andrews, bart.

*Limehouse.* Robert Batson, ship-builder; Robert Mellish, ship-builder; James Mitchell, rope-maker; Adam Steinmetz, biscuit-baker; Jeremiah Blakeman, timber-merchant; Thomas Bird, distiller; Charles Turner, sail-maker; Thomas Draine, brewer; Emanuel Goodheart, sugar-refiner; Christopher Richardson, timber-merchant; Norrison Coverdale, rope-maker; Anthony Calvert, merchant.

*Lisson-green.* James Stephens, esq.

*London-street, Tottenham-court-road.* George Sewell, gent.

*Marlborough-street, (Great),* John Harrop, gent.

*Mile-end.* John Charrington, esq. and brewer; John Liptrap, esq. and distiller; Ralph Keddey, esq. and merchant.

*Mimms (South).* Francis Barneau, esq.

*Moorfields.* Samuel Mills, weaver.

*Newington (Stoke).* George Rigby, esq.

and Irish-factor; Jonathan Eade, esq. and ship-chandler.

*New-road, Tottenham-court-road.* Joshua Brooks, dealer in birds; John White, esq. and builder; Cam Farmer, gent.

*Northumberland-street.* Henry Capel, gent.

*Old-street.* Richard Child, distiller.

*Ormond-street, (New).* Thomas Nixon, esq. and merchant; William Cooke, esq.

*Paddington street, St. Mary-le-bone.* Richard Carter, esq.

*Pall-mall.* Richard Croft, esq. and banker.

*Percy-street, Rathbone-place.* Thomas Elmsley, esq.

*Pimlico.* George Shakespear esq. and builder.

*Poplar.* John Powsey, carpenter and surveyor.

*Portman-square.* William Atwick, esq.

*Potter's-bar,* near *Northam.* Francis Hammond, esq.

*Princes-street, Red-lion-square.* John Lovett, gent.

*Queen-square, Bloomsbury.* William Fraser, esq.; William Moffatt, esq. and merchant; William Arnold, esq.

*Queen-street, (Great), Lincoln's-inn-elds.* Robert Kilby Cox, esq. and brewer.

*Ratcliff.* Charles Bowles, Glass-house-yard, Sun-tavern-fields, glass manufacturer; Joseph Bird, Cock-hill, esq. and sail-maker; John Thompson, Sun-tavern-fields, rope-maker.

*Rathbone-place.* Hugh French, esq. and apothecary.

*Russel-place.* Sir John Crofts, bart.; Charles Bishop, esq. and proctor.

*St. Catherine's.* William Mashiter, wharfinger; Henry Goodwyn, esq. and brewer.

*St. James's-street, Piccadilly.* James Crane, esq.

*Seymour-street (Upper), Mary-le-bone.* William Phillimore, esq.

*Shadwell.* Newell Connop, distiller; Arthur Shakespear, Stepney-causeway, esq. and rope-maker; Matthew Whiting, ditto, sugar-refiner.

*Shoreditch.* Thomas Proctor, Holywell-street, esq. and brewer; John Marshall, ditto, esq.

*Smithfield, (East),* William Down, wharfinger; Rawson Aislabie, wine-merchant and soap boiler.

*Soumer's-town.* John Harrison, Duke's-row gent.

*Southampton-place, New-road.* James Haygarth, esq. and builder; John Mandell, gent. Thomas Matthews, gent.

*Southampton-row, Bloomsbury.* George Wade, stock-broker.

*South Molton-street.* John Pratt, gent.

*Spring-gardens.* Edmund Antrobus, New-street, esq. and banker.

*Stanmore.* Samuel Dickenson, esq.; Charles Wiggins, esq.

*Strand.* George Jefferys, jeweller and silversmith.



*Sunbury.* Roger Boehm, esq. and merchant; Dicker Saunders, esq.; James Shergold, esq.; William Parker, esq.

*Teddington.* William Sandby, esq. and banker.

*Tottenham.* Thomas Powell, High-cross, esq. and merchant; William Row, ditto, esq. and broker; Charles Pratt, miller.

*Tottenham-street.* John Leader, gent.; Joseph Mawley, gent.

*Turnham-green.* James Payne, esq.

*Turnmill-street, Cow-cross.* Philip Booth, distiller.

*Twickenham.* John Davenport, esq. and woollen-draper; George Gosling, esq. and banker; Benjamin Green, esq. and register in chancery; Edmund Hill, Whilton, esq. and gunpowder merchant.

*Usbridge.* John Mercer, mealman; Daniel Cook, distiller.

*Wapping.* Thomas Martin, King Edward-stairs, oilman; John Rixon, Hermitage-street, cooper; Daniel Martin, Red Lion-street, esq.; Andrew Burt, Charlotte-street, esq. Michael Henley, coal-merchant; Nathaniel Allen, Wapping-wall, ship-chandler.

*Wellclose-square.* Theophilus Pritzer, sugar-refiner; Casten Rohde, esq. and sugar-refiner.

*Whitechapel.* Henry Bullock, High-street, brewer.

*Wilden.* Joseph Nicoll, Neasdown, gentleman-farmer; Edward Franklin, farmer.

*Wimbly-green.* Richard Page, esq.

*Session House, Clerkenwell, Tuesday, Oct. 7th.*

The Grand Jury being called, presented a true bill against John Martin, for high treason.

The *Chief Justice* asked if there were any more bills ready for the grand jury.

The *Foreman* said, the jury would be glad to adjourn to some day, when there might be business sufficient to engage them the whole day.

Mr. *White*, one of the solicitors to the treasury, said, if the Court was adjourned till Thursday, he thought they should be ready with all the bills that were meant to be presented, if that day would be convenient for the jury.

The *Foreman* said, the jury had no objection.

The *Chief Justice* said, he had no objection, after the business of this day was over, to adjourn the court to Thursday, at 10 o'clock.

At this moment appeared in court Mr. Holcroft, who addressed the court to the following effect:

"My Lord;—" Being informed that a bill for high treason has been preferred against me, Thomas Holcroft, by his majesty's attorney-general, and returned a true bill by a grand jury of these realms, I come to surrender myself to this court, and my country, to be put upon my trial; if I am a guilty man, the whole ex-

tent of my guilt may become notorious; and, if innocent, that the rectitude of my principles, and conduct may be no less public. And I hope, my lord, there is no appearance of vaunting in assuring your lordship, this Court, and my country, that, after the misfortune of having been suspected as an enemy to the peace and happiness of mankind, there is nothing on earth, after which, as an individual, I more ardently aspire than a full, fair, and public examination.

"I have further to request that your lordship will inform me, if it be not the practice, in these cases, to assign counsel, and to suffer the accused to speak in his own defence? Likewise, whether free egress and regress be not allowed for such persons, books, and papers, as the accused, or his counsel, shall deem necessary for justification?"

*Chief Justice.*—"With regard to the first, Sir, it will be the duty of the Court to assign you counsel, and also to order that such counsel shall have free access to you at all proper hours—with respect, Sir, to the liberty of speaking for yourself, the accused will be fully heard by himself, as well as by his counsel; but with regard to papers, books, and other things of that kind, it is impossible for me to say any thing precisely, with regard to them, until the thing required be asked. However, Sir, you may depend upon it, every thing will be granted to the party accused, so as to enable him to make his defence. If I understand you rightly, you now admit that you are the person standing indicted by the name of Thomas Holcroft?"

Mr. *Holcroft.*—"Yes, my lord."

*Chief Justice.*—"You come here to surrender yourself, and I can only accept of that surrender on the supposition that you are the person so indicted. You know the consequence, Sir, of being indicted of high treason. I shall be under the necessity of ordering you into custody. I would not wish to take any advantage of your coming forward in person, indiscreetly, in this manner, without being called upon by the ordinary process of the law. You should have a moment to consider whether you surrender yourself as that person."

Mr. *Holcroft.*—"It is certainly not my wish, either to inflict upon myself unnecessary punishment, or to appear to put myself forward on this occasion. I come only as Thomas Holcroft, of Newmarket-street, in the county of Middlesex, and I certainly do not wish to stand more forward, than any other man ought to stand."

*Chief Justice.*—"I cannot enter into this point. If you admit yourself to be the person indicted, the consequence must be, that I must order you to be taken into custody to answer this charge. I do not know whether you are, or are not, Thomas Holcroft. I do not know you, and therefore it is impossible for me to know whether you are the person stated in the indictment."

Mr. Holcroft.—“It is equally impossible for me, my lord.”

Chief Justice.—“Why? then, Sir, I think you had better sit still.—Is there any thing moved on the part of the crown with respect to this gentleman?”

Solicitor General.—“My lord, as I consider him to be the person against whom a true bill is found, I move that he be committed.”

Chief Justice.—“I do not know how many persons there may be of the name of Thomas Holcroft; it would be rather extraordinary to commit a person on this charge, if we do not know him.”

Mr. Knapp, one of the counsel for the crown, contended, that from what the prisoner had said at first in court, he admitted himself to be the person.”

Chief Justice.—“That does not signify. Does the counsel for the crown think fit that this gentleman should be committed?”

Solicitor General.—“I move that he now be taken into custody.”

Chief Justice.—“Sir, you must now stand committed.”

A sheriff's officer now took Mr. Holcroft into custody.

Chief Justice to the prisoner.—“Are you prepared to name your counsel?”

His solicitor immediately named Mr. Erskine and Mr. Gibbs, whom the court assigned in the usual form.

The same learned advocates were named for Mr. Thelwall and Mr. Baxter.

John Pearce stated to the Court, that he was an articled clerk to Mr. Martin against whom the grand jury had found a bill. He requested that he might be permitted to attend Mr. Martin, as, without his assistance, he did not think Mr. Martin would be able to proceed to his trial.

The Solicitor General objected to this application, because there might be a charge against Mr. Pearce himself.

The Judge observed, that until some charge was preferred, he could not refuse this application.

Mr. White, the solicitor, desired that the order might be postponed until Friday, which the judge consented to, on condition that a copy of the indictment was not preferred till that time. The chief justice then ordered the officer to adjourn the Court.

Mr. Holcroft begged that his servant might be permitted to have access to him.

The Chief Justice said, that was a sort of thing that was quite new, and he did not know that he could grant it, unless something was stated by Mr. Holcroft, with respect to his health, to make it requisite.

Mr. Holcroft said, there was nothing of that sort; that he did not know it to be unusual, or he should not have asked it. The reason for his asking it, was, that his servant was his amanuensis; it had been his habit to dictate to this man, and therefore it would be extremely convenient for him to be indulged

in this particular, if that was not contrary to custom.

The Chief Justice said, he was afraid it was, and he thought it would be proper for Mr. Holcroft to apply to another quarter, which could better grant indulgence than he could sitting in that court.

Mr. Holcroft said, he wished to have no indulgence; he only wished for justice.

The Chief Justice said, “Then, Sir, I cannot make the order.”

The Court then immediately adjourned to Thursday, at ten o'clock in the morning.

[The preceding account being that which appeared in the public prints, there appeared next day, in the same prints, the following note from Mr. Holcroft.]

#### To the Editor, &c.

Sir;—The predicament in which I stand is, I presume a self-evident motive, why I should be assiduously careful that the following mistake, in your account of what passed yesterday at Hicks's hall, should be corrected. You state, that, when asked by the chief justice whether I admitted myself to be the person indicted by the name of Thomas Holcroft, I answered, “Yes, my lord;” far from answering in this direct manner, the question immediately awakened in me some apprehension of having too implicitly credited the reports I heard, from persons of various rank and station, that a bill for high treason was found against me; the purport of my answer to his lordship immediately was, that the only knowledge I had of the event was that which I derived from these reports. Such an answer as you have been informed I made, might very innocently have escaped a very innocent man, though the truth is, it did not happen to escape me. It might perhaps too very innocently, but mistakenly, have implied, in the minds of some people, a consciousness of my having deserved to be indicted; an innuendo which, from my heart and soul, and with all the faculties I possess, of mind memory, and truth, I repel.

THOMAS HOLCROFT.

Newgate, October 8, 1794.

Session House, Clerkenwell, Thursday, Oct. 9th.

The Court met again at ten o'clock, when the grand jury presented a true bill for high treason against John Hillier.

Another bill was then preferred by Mr. White, solicitor of the treasury. With this bill the jury retired to their own room; after which the Court adjourned to Thursday, the sixteenth of October.

Session-House, Clerkenwell, Thursday, Oct. 16th.

The Court sat as before. The grand jury returned a true bill against John Philip Franklow for high treason.

Mr. *White*, solicitor of the treasury, then preferred two other bills to the grand jury.

The Chief Justice observed, he should wish to adjourn the Court for the accommodation of the jury, and he thought Tuesday next might be a proper day; in the mean time the jury would proceed on the bills now before them. His lordship said, he hoped on Tuesday to discharge the jury from a very long and laborious service; at least until further summons. His lordship asked if there was any motion to be made? To which, there being no answer, the court adjourned to Tuesday, the 21st of October.

#### Tuesday, October 21st.

The court met, when the grand jury found a true bill against Thomas Spence for high treason.

A bill against John Ashley, for the same crime was not found.

Adjourned to Saturday the 25th of October.

[At eight o'clock on Friday morning, the 24th of October, the prisoners, who were confined in the Tower, were taken from thence by the sheriffs, and conveyed in hackney coaches guarded by constables, &c. but no military, to Newgate.]

#### Saturday, October 25th.

The Court met at the Session-House, in the Old Bailey, when, at one o'clock, the following took their seats on the bench.

The Lord Mayor, Lord Chief Justice Eyre, Lord Chief Baron M'Donald, Sir B. Hotham, Sir N. Grose, Sir F. Buller.—*Aldermen*, Clarke, Gill, Picket, Newman, Macaulay, Anderson.

After the usual proclamation, Mr. Kirby, the keeper of Newgate, was ordered to bring to the bar the following prisoners in his custody, against whom the grand jury had found their

#### First Bill of Indictment.

*Thomas Hardy*, late of Westminster, in the county of Middlesex, shoemaker.

*John Horne Tooke*, late of Wimbledon, in the county of Surrey, clerk.

*John Augustus Bonney*, late of the parish of St. Giles in the Fields, in the county of Middlesex aforesaid, gentleman.

*Stewart Kydd*, late of London, esq.

*Jeremiah Joyce*, of the parish of St. Mary-le-bone, otherwise Marybone, in the county of Middlesex aforesaid, gentleman.

*Thomas Holcroft*, late of the parish of St. Mary-le-bone, otherwise Marybone, in the county of Middlesex aforesaid, gentleman.

*John Richter*, late of Westminster, in the said county of Middlesex, gentleman.

*John Thelwall*, late of Westminster, in the said county of Middlesex aforesaid, gentleman.

*John Baster*, late of the parish of St. Leo-

nard, Shoreditch, in the county of Middlesex, aforesaid, labourer.

The Court, immediately on their appearance, wished to know, whether the prisoners' counsel attended in pursuance to their nomination and appointment?

Mr. *Gurney* replied, that in addition to his learned friends present, who had been retained, he expected Mr. *Erskine*, Mr. *Gibbs*, and Mr. *F. Vaughan*, who had been nominated by the Court.

The Court condescended to wait a few minutes.

The windows which are behind the bar, where the prisoners were, having been previously let down by the Lord President's orders, so as to admit a strong current of air, the following observations were made by

Mr. *Horne Tooke*.—"My lord, I beg leave to represent to the Court, that we have just come out of a very confined and close hole, and the windows now opened at our backs, expose us to so much cold air, that our health, particularly my own, will be considerably endangered, and most probably we shall lose our voices before we leave the place. I shall, therefore, request of the Court to be dismissed as soon as their convenience will permit."

The Lord President of the Commission.—"If you are prepared to plead, sir, you may be dismissed almost immediately. We were waiting for your counsel, that you might have the benefit of their assistance."

Mr. *H. Tooke*.—"My lord, in a great measure am I prevented from being now able to say any thing on the subject of the indictment, from the circumstance of our not having had the ten clear days allowed by act of parliament, to persons in our situation. By the change of custody a whole day has been completely lost to us; in consequence, we have not had an opportunity of conversing with our counsel. Mr. *Erskine* and Mr. *Gibbs* had engaged themselves to dine with me on Friday, for the purpose of conferring together on the business of this day. Notice was given me as late as nine or ten on Thursday night only, of my intended removal; I was removed by eight o'clock the next morning: it was perfectly impossible for me, therefore, to take the advantage of my counsel's advice, as our arrangements were thus completely destroyed, and all my papers, which I had collected and arranged in the Tower, thrown into disorder and confusion. Your lordship—who never was a prisoner—can have but a very imperfect idea of the change of custody."

The Lord President.—"The Court is inclined to make every allowance that can be expected, and is willing to wait the arrival of your counsel."

Mr. *Tooke*.—"Rather than catch cold, I should choose to plead at present. I ask no indulgence, but desire substantial justice. When I mentioned the circumstance of the



day's loss, I did not, by any means, wish to cause delay. It is undoubtedly clear, that the act, which says, that *not less* than ten days should be allowed, by no means meant to preclude the accused from having the advantage of *more* than ten days, if necessary for the preparation of materials requisite for their defence. I hope that no inconvenience will arise to us from the shifting of custody:—but we certainly have not had the indulgence which that law intended us. I am, however, ready to plead, though deprived of the advantage of my papers, and the benefit of advice. We have been six months in close confinement, without being able yet to imagine what was the nature of the charges to be brought against us, nor have we been able to discover it from the indictment found against us."

Mr. Thelwall.—"My lord, I think it my duty, and an act of justice to myself and my country, to mention, in this public manner, the hardships which we have suffered. Not to mention the loss of a day, I myself have to complain of a circumstance very detrimental indeed to me. I have been deprived of the benefit of my books and papers, which I had collected together, and arranged in the Tower. When we were removed from the Tower, the sheriffs thought proper not to allow me time sufficient to take them with me; I do not mean to attach any blame to them, when I mention this, for with great politeness they promised I should have them sent me. Afterwards, when I had an opportunity of sending for them through the medium of a friend who was sending to the Tower for some things he wanted, I was refused, and received an evasive answer. I was informed, that they could not send what I wanted, as I had a number of other things there, and they must be sent for together, as it would be necessary to have a separate coach for them. This morning I received a second evasive answer. I mention this circumstance not with any view of delay, for I am as anxious, as any man can be for any thing, to meet the justice of my country."

The indictment was then read by the clerk of the Arraigns.

The prisoners were then severally asked the usual questions, "*Guilty or not guilty?*"—"*How will you be tried?*"

Mr. Hardy.—"*Not guilty.*"—"By God and my country."

Mr. Tooke.—"*Not guilty.*" On being asked how he would be tried, he eyed the Court for some seconds with an air of significancy, which few men are so well able to assume, and, shaking his head, emphatically answered—"I would be tried by God and my country. But—"

The others answered in the usual manner—"Not guilty"—By God and my country."

Mr. Bonney was about to make some remarks, when he was interrupted by

The Lord President.—"Tooke having com-

plained of the coldness of the air, may withdraw."

Mr. Tooke then withdrew.

John Augustus Bonney.—"My lord, there is an error in this indictment, which entitles me to plead in abatement. I am described late of the parish of *St. Giles in the Fields*, whereas I ought to have been described of the parish of *St. Pancras*. I never did reside in the parish of *St. Giles*. But, my lord, I am also charged by this indictment with having committed treason in the parish of *St. Giles*; and as my description is just as true and correct as this assertion, I am content to take my trial upon the indictment in its present form; for I look forward with earnest and anxious expectation for the day when a jury of my country shall justify me from the aspersions thrown on my character by this indictment: I therefore wave my objection, and plead generally, that *I am not guilty.*"

Mr. Thelwall.—"There is a circumstance, my lord, which my counsel have informed me would entirely quash this indictment as far as regards me, if I were inclined to take advantage of it. My description is not right: I am described as an inhabitant of *Westminster*, whereas I reside in the *Liberties* of the *Duchy of Lancaster*. Anxious as I am to have my conduct examined into by my country, I despise the idea of availing myself of any paltry subterfuge. I feel perfectly convinced, that when the long expected day shall come, no honest jury can say otherwise than I do now,—*Not guilty.*"

Mr. Bonney then said, "I beg that your lordships will allow me a few words before we quit the bar. I assure you, if I had been arraigned for any known and certain treason, for murder, or for felony, I would ask no favour of your lordships; but when I stand before you upon a case, in which (and I believe I have your lordships' opinion in my favour on the subject) if the facts charged against us should be proved, there would still be very great doubt upon the law, I trust I do not make an improper request when I solicit your lordships, that we may be allowed as many of the little comforts and conveniences of life (to which we have been accustomed) as may be consistent with the security of our persons. Your lordships, I am sure, will agree with me, that a situation in which a man can neither sleep by night, nor cast his eye on a ray of comfort by day, is not much adapted to prepare his mind for so important a trial as mine—and yet, my lords, such is my situation."

"I beg to be understood not to intend the smallest insinuation against the sheriffs; their language and their countenances, when they visited me yesterday in my cell, sufficiently convinced me of the concern they felt at not being able to afford me better accommodation. My request, therefore, to your lordships is, that we may be remanded to the custody of the governor of the Tower, where we

by a late act of parliament, for constituting the commission, be recorded."

Mr. Erskine, who, together with Mr. Gibbs and Mr. Vaughan, counsel for the prisoners, had come into court during the reading of the indictment by the clerk of the crown, apologized to the Court for their momentary absence, as not expecting the business of the Court to begin so early. He understood that Mr. Horne Tooke had stated, and truly, to the Court, the total want of communication between him and his counsel, owing to his unexpected removal. He therefore confided in the discretion and humanity of the Court, that they would, in some degree, remedy this evil, by not proceeding to trial till Tuesday next at the soonest, in order to afford an interval for such communication between the prisoners and counsel as was necessary for their safety.

The *Attorney General* said, the prisoners were duly apprized of their being to be arraigned as on this day. Their removal from the Tower to Newgate was arranged to take place as late as possible, in order to prevent their

willed it, that the trial stand over till Tuesday.

The Court accordingly the commencement of the next. The attorney-general, either that they must next, for which day they were named, or else they must for Tuesday.

The Court directed that give notice to the gentlemen that their presence would be required till Tuesday; and that they should be on Monday morning *pro forma*, over to the following day, business.

The Court was then adjourned till next at eight o'clock in the morning.

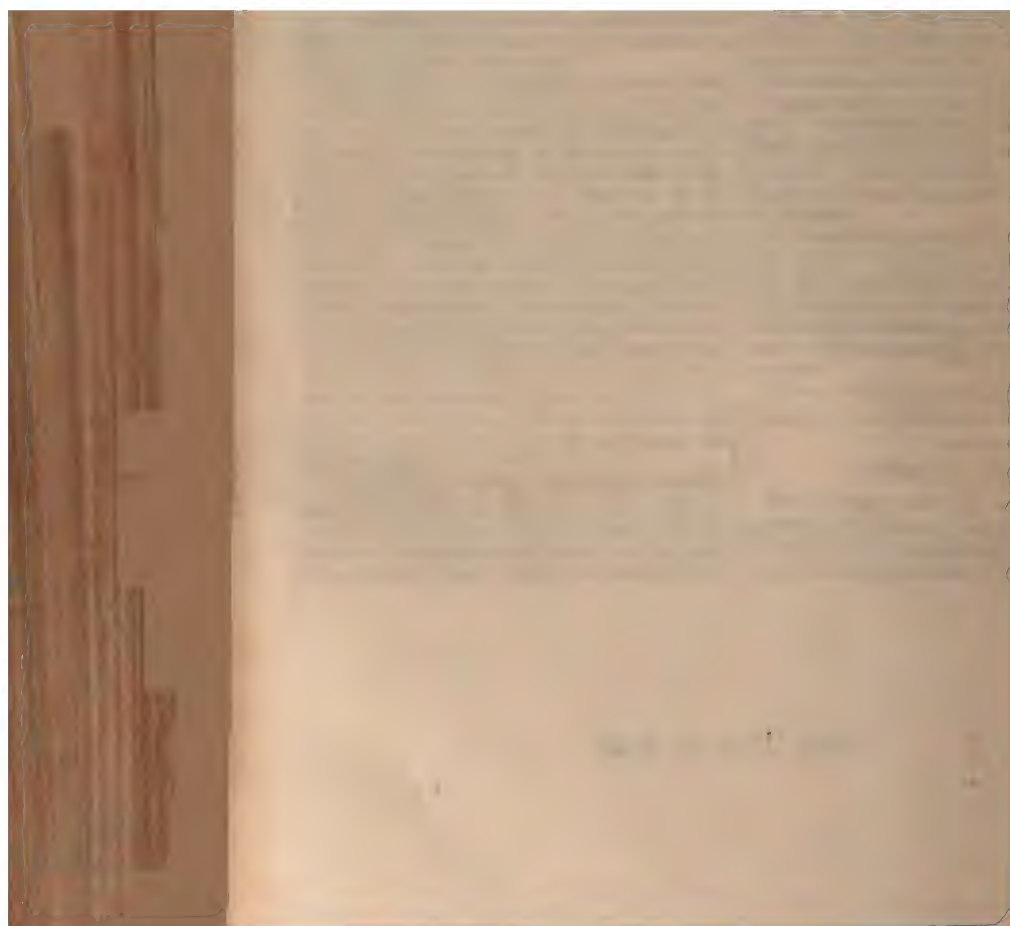
Monday, Oct 11

The Court met at ten o'clock in the morning, *pro forma*, and adjourned till Tuesday next at eight o'clock in the morning. Hardy's trial, by Sibbly, &c.

END OF VOL. XXIV.















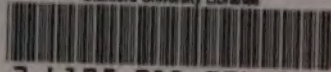








Stanford University Libraries



3 6105 011 974 552

STANFORD UNIVERSITY LIBRARIES  
STANFORD AUXILIARY LIBRARY  
STANFORD, CALIFORNIA 94305-6004  
(650) 723-9201  
[salcirc@sulmail.stanford.edu](mailto:salcirc@sulmail.stanford.edu)  
All books are subject to recall.  
DATE DUE

